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THE
QUARTERLY JOURNAL
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NOVEMBER, 1916

THE TAXATION OF PROPERTY AND
INCOME IN MASSACHUSETTS

SUMMARY

I. Taxation in Massachusetts in the seventeenth and eighteenth centuries, 1.—II. The period, 1800–1850, 5.—III. The critical period, 1850–1874, 7.—IV. Gradual disintegration of the general property tax, 19.—V. Attempts at stricter enforcement, 1908–1916, lead finally to change of the system, 32.—VI. An income tax proposed: constitutional amendment of 1915, 46.—VII. The income tax act of 1916, 50.

I

In principle the general property tax was established in Massachusetts by the well-known law of 1634 which provided that in all "rates and public charges" the towns should tax everyone according to his estate and with reference to "all other his abilities whatsoever." The first detailed tax law, enacted in 1646, established a system of taxation upon "visible estate" real and personal, supplemented by a tax upon incomes of laborers, artificers and others, which in time developed into a tax upon incomes not derived from property. With these levies upon estates and incomes went the poll tax which had existed in the colony from the very

beginning. The act of 1646, therefore, definitely established a system of direct taxation upon property, income, and polls, which continued in operation without fundamental changes until 1862, and for the most part lasted until the twentieth century.

The operation of this tax system in the seventeenth century has been exhaustively studied by Professor Day,¹ who finds that it was customary to levy upon polls from 35 to 40 per cent of the direct taxes imposed for colonial and local purposes. In some communities the proportion was frequently greater than this, sometimes rising to 50 and even 60 per cent of the tax levy. Property, therefore, paid but 60 or 65 per cent of the direct taxes, and sometimes contributed 50 per cent or less.

Until the very end of the century the property tax was confined to *visible* estates, which term, however, probably included money. In practice this meant that land, buildings, and live stock accounted for nearly the whole of the assessments. Since land values were low and there were few expensive buildings in the colony, the proportion of the taxes falling upon live stock was very heavy. Professor Day finds that such property often accounted for one-half, two-thirds, and even three-fourths of the whole assessment placed upon estates, with the result that personalty frequently paid a larger proportion of the taxes than did realty. It may be estimated roughly that of every £100 of direct taxes levied in a representative Massachusetts town in the seventeenth century, some £35 to £40 was levied upon polls, and that the remaining £60 to £65 was contributed by real estate and live stock in proportions which varied but may not have been very un-

¹ E. E. Day, *History of the General Property Tax in Massachusetts, 1630-1688*. (Unpublished thesis, in Harvard University Library.)

equal.¹ Personal property other than live stock constituted in most towns an unimportant part of the assessment, and incomes usually were a negligible factor.

The eighteenth century brought new conditions which gradually wrought material changes in the practical operation of the tax system. The proportion of direct taxation falling upon polls slightly decreased, since it became the general rule to levy one-third of the direct taxes upon polls and two-thirds upon property. Peculiar conditions sometimes made the poll taxes considerably higher or a little lower than this figure, but in the average town conditions probably conformed pretty closely to the intention of the law.

The great change, however, was the advance of real estate to a commanding position upon the tax rolls. The frontier of settlement had been pushed forward into the Connecticut valley, and eastern Massachusetts was becoming a fairly populous and prosperous community. Land values were rising, and houses better than American architects ordinarily produced in the nineteenth century were becoming common. As a result, the assessed value of real estate steadily rose, and personal property became of much less relative importance. In 1792, the assessment placed upon realty was £713,600, that upon personalty was £144,400, while property "doomed" by the assessors, which was largely personalty, was assessed at £81,100. If we assume all the "doomed" property to be personalty, we may compute that personal property accounted for 24 per cent of the total assessment and real estate for 76 per cent.² Since one-third of the direct taxes was levied upon polls, we may compute that of every £100

¹ In Boston, for instance, Day finds that in 1676 real estate accounted for 62 per cent of the total assessment of property, while in 1687 personalty accounted for 53 per cent.

² See Wolcott's Report on Direct Taxes. *State Papers, Finance*, vol. i, p. 451.

of taxes levied in a Massachusetts town, £33½ fell upon polls, £50½ fell upon real estate, and £16 fell upon personality, including income which was almost everywhere a negligible factor.

Wolcott's Report enables us to divide the £144,400 of property recorded as personality into its component parts. Of this sum £66,300 represented live stock, £42,600 represented other tangible personality, and £35,500 intangibles. What the £81,100 of "doomed" personality consisted of, we can only conjecture; but we may believe that it was composed chiefly of merchants' stocks, money at interest and other intangibles, and perhaps incomes. In considering these figures it should be remembered that at this time property was placed upon the assessment roll at 6 per cent of its true value, with the exception of unimproved real estate, which was assessed at 2 per cent.

Money was, doubtless, included in the visible estates, for which inhabitants of Massachusetts were taxable in the seventeenth century. At the very end of that period money at interest is mentioned by the annual tax acts, and during the eighteenth century intangible property became subject to taxation. When corporations developed, their shares were taxable, like other personality; but, as a gentle reminder to local assessors, the tax act for 1793 specifically mentioned bank stock. During the next decade shares of bridge or turnpike companies and other moneyed corporations received similar mention. The commercial development of the state was greatly increasing the amount and the importance of this class of property, and the growth of a considerable body of public securities at the same period tended to the same result. In 1790, Massachusetts had merchant princes whose fortunes were counted by the hundred thousands, and in some cases approached the

figure of \$1,000,000. The money made in commerce soon overflowed into banking and manufacturing, and into bridge, turnpike, and canal companies, with the result that the amount of intangible personal property rapidly increased.¹

II

From 1800 to 1850 the financial problems confronting Massachusetts were few and comparatively simple. When the Federal government in 1790 assumed the greater part of the state debt, the burden of state taxation was reduced to an almost nominal figure.² By 1850 conditions had somewhat changed, but the pressure of taxation was still comparatively light. In Boston the tax rate for that year was \$6.80, and this figure was probably not far from the average for the state at large. In interpreting these figures it is necessary to consider the further fact that real estate assessments were undoubtedly at a lower percentage of the true value than they are at the present day. While the matter has not been fully investigated, such evidence as we have indicates that in the average city or town prior to 1860 realty was probably not assessed at more than 50 per cent of its true value.

Under such conditions an easy-going administration of the tax laws sufficed to place a substantial amount of personal property upon the assessment rolls. In Boston in 1794 over 57 per cent of the assessment appears to

¹ This period is being exhaustively studied by Dr. H. H. Burbank, and will be treated in his book dealing with the history of the general property tax in Massachusetts since 1775.

² I have treated this subject in my monograph upon The Finances and Financial Policy of Massachusetts, chs. 2-4. The local governments were as yet undertaking few new functions so that their expenses were comparatively light. The result was that the pressure of taxation was light and the general property tax met fairly well the requirements of the period. In Boston the tax levy of 1820 amounted to no more than \$3.60 per capita, and the tax rate was but \$3.50. In 1840, after Boston had been a city for eighteen years and had greatly increased her expenditures, the tax levy was but \$6.30 per capita and the tax rate \$5.50.

have consisted of personal property. In 1810 the proportion of personality was over 45 per cent, in 1822 it was over 44 per cent, and as late as 1860 it was nearly 41 per cent. The per capita assessment of personal property in Boston was approximately \$540 in 1804, and \$635 in 1860. For the state at large no figures are yet available between the years 1792, when we have Wolcott's Report, and 1850, when we have the figures of the United States Census. In the former year, as we have seen, if the property "doomed" by the assessors is counted as personal, 24 per cent of the total assessment consisted of personality. In 1850 the Census figures showed a total assessment of \$551,000,000 of which nearly \$202,000,000 was personal property, the percentage of personality being 36.6. It appears, therefore, that between 1792 and 1850, at the time when intangible property first became an important factor in Massachusetts, the proportion which personal property bore to the total assessment rose from 24 to 36.6 per cent.

What proportion of the increased assessment of personality consisted of intangibles and what proportion consisted of merchants' stocks, machinery, live stock, and the very important item of ships and vessels, has not yet been ascertained. It may be that intangible property accounted for only a small part of the increase; but so far as our present knowledge goes, we can say that there is no evidence that it was the growth of intangible property in Massachusetts which broke down the general property tax. Upon the contrary, during the period when intangibles became an important factor in the situation, the assessment of personal property showed both an absolute and relative increase. With low tax rates the assessors succeeded in reaching a sufficient amount of personal property to account for 40 per cent of the total assessments during the period.

An important change in the distribution of the whole tax burden occurred in 1814 when the proportion of direct taxes assessed upon polls was reduced to one-sixth of the total levies. In 1850 we may estimate¹ that of every \$100 of local taxation, \$16.67 was levied upon polls, \$52.80 was levied upon real estate, and \$30.50 was levied upon personal property and income, the latter still being a negligible factor. If these figures are compared with those computed for 1792, it will be seen that the proportion which real estate formed of the total assessment had slightly increased, and that the decrease in the levy upon polls was made up chiefly by the increase in the assessment of personal property.

III

The twenty-four years following 1850 were the critical period in the history of the general property tax in Massachusetts. The tax had met fairly well the requirements of the first half of the nineteenth century, but proved wholly inadequate for subsequent needs. All the evidence justifies the conclusion that it was the increase of public expenditures which caused the breakdown.

The growth of cities, the emergence of new public needs, the unusual demands of the civil war, and the period of public and private extravagance which continued until the panic of 1873, combined to produce an unprecedented increase in expenditures. The outlay of the state government was \$566,100 in 1850, while in 1860 it had increased to \$1,193,000, and in 1868 had risen to \$5,159,000. Thereafter it decreased to some extent, but at the end of a period of severe retrench-

¹ If the bank tax, which yielded the state \$354,700 in 1850, were added to the local taxes, the proportion of personal property in the total would be increased by perhaps six or seven dollars. But as we have no data concerning the taxes raised for local purposes, no accurate calculation can be made on this point.

ment stood at \$3,907,000 in 1880. Local expenditures followed the same general course. For 1850 no data are available, but we know that in 1861 the taxes levied upon property in Massachusetts amounted to \$7,145,000, and that by 1874 they had risen to \$27,830,000. The total taxes of all descriptions levied in the Commonwealth amounted to \$8,284,000 in the former year and to \$33,674,000 in the latter; while the per capita tax burden had risen from \$6.69 to \$20.87.¹ To make the situation worse, both state and local debts had shown a portentous increase, so that interest and sinking fund charges were certain to complicate the financial problem of the future.

The only possible result was a sharp increase of tax rates. In Boston the rate advanced from \$6.80 per \$1000 in 1850 to \$9.30 in 1860 and to \$15.60 in 1874. In the entire state the average tax rate, which was \$8.29 in 1861, was \$15.18 in 1874. The strain of such high rates was greater than the existing system could possibly endure, and therefore taxation immediately became a "problem" in Massachusetts.

One of the first readjustments required in the tax laws was a reduction of the poll tax. Since 1829 the law had provided that one-sixth of the state tax should be assessed upon polls, and that the same proportion should be followed in local taxes, provided, however, that the total poll tax levy for city, town, and county purposes should not exceed \$1.50. If one-sixth of the heavy taxes levied for state purposes during the civil war had been levied upon polls, and the assessments for local purposes had approximated \$1.50, the aggregate poll taxes would have risen to high figures. Therefore in 1862 it was enacted that the aggregate poll tax for all

¹ These figures may be found in *The Finances and Financial Policy of Massachusetts*, pp. 46, 63, and 135.

purposes, state and local, should not exceed \$2, with a possible exception in the case of highway taxes separately assessed. Even under this law the poll tax, which in 1861 had averaged \$1.62, increased to \$2.50 and \$3.00 in many towns in 1864 and 1865; while such a rate as \$4.25 was reported in one instance. For the entire state the average poll tax in 1865 was \$2.11. With the tax limited in this manner, increases in local taxation thereafter fell wholly upon property; and the poll tax became a factor of decreasing importance.

The principal change that occurred during this period was the introduction of an extensive system of corporation taxes. In 1812, Massachusetts had imposed a tax of one per cent upon the capital stock of state banks, and twenty years later had levied a retaliatory tax upon the agents of foreign insurance companies chartered in states that taxed the agents of Massachusetts companies. The bank tax soon yielded a handsome revenue, and was the mainstay of the state's finances during the civil war. It seems to have been looked upon as a tax upon the privilege of issuing notes, since the shares of the banks remained taxable in the hands of the stockholders. The insurance taxes never produced enough revenue to make them of financial significance. Up to 1862 Massachusetts had made no fundamental departure from the general property tax; and, except for comparatively unimportant exemptions, all property was subject to local taxation.

But in the year just mentioned a law was enacted which exempted from taxation deposits in savings banks, and then imposed upon the banks themselves an excise tax of one-half of one per cent. Altho this rate was subsequently increased, then reduced, then increased, and finally restored to the original figure, it was always less than the average rate imposed upon other

property in Massachusetts; and as local tax rates increased, it finally fell to less than one-third of the average rate of taxation. It therefore established a separate classification for savings bank deposits, justified no doubt upon the theory that such property was entitled to special consideration, but marking none the less a deliberate departure from the principle of the general property tax. It also raised interesting and important constitutional questions.

The earliest tax laws of the colony of Massachusetts had been based upon the English system of local taxation. That system had been based upon the principle of equal, proportionable, and ratable taxation according to the abilities of the citizens, but had not always employed the same measure of ability.¹ The earliest Massachusetts tax laws provided in almost identical language for equal and proportionable rating of the inhabitants of Massachusetts, and selected visible estates as the measure of the citizens' contributions. It, therefore, naturally happened that the province charter of 1691 contained a provision authorizing the general court to levy "proportionable and reasonable assessments, rates, and taxes." What the word "proportionable" meant to the person who inserted it in the charter, we do not know; but we do know that the word was never so construed as to prevent the province from classifying property for taxation. On the contrary, the provincial tax laws repeatedly classified property and continued to do so down to the time of the revolution. Real estate was usually required to be assessed at six times the annual income. Live stock was assessed at arbitrary valuations fixed by law, and other personal

¹ Cannan's *History of Local Rates in England* gives sufficient evidence concerning the sources upon which the authors of the earliest Massachusetts laws drew.

property practically according to the judgment and discretion of the assessors.

The constitution adopted by Massachusetts in 1780 took over from the provincial charter the provision that the general court should have the power to levy "proportional and reasonable assessments, rates and taxes." If it had stopped there, it might never have been so construed as to prevent classification of the objects of taxation, because the colony and province had always levied excise and import duties, and the state continued to do so. It would probably have been evident to any court that the framers of the constitution had not intended to invalidate the existing system of excise and customs taxes, and it is therefore unlikely that the constitutional requirement that taxes shall be "proportional" would have been construed so strictly as to make excise and customs duties unconstitutional. But after conferring upon the general court the same taxing power that the province of Massachusetts had always exercised, the framers of the constitution inserted an additional provision authorizing the levy of "reasonable duties and excises." This action may have been due to a fear or belief that, without specific authorization of duties and excises, the general court might be unable to levy such imposts. But this caution was probably unnecessary. The taxation system of Massachusetts had never been proportional in any mathematical sense, and it had always included excise and customs duties, to which it would have been practically impossible to apply any requirement of proportionality. The excise clause, therefore, was probably unnecessary, and could have no other effect than to oblige the courts to find a reason for the inclusion of the word "proportional" in the clause relating to direct taxes and for its exclusion from the clause relating to duties and excises.

Whatever the framers may have intended, the second tax act ¹ enacted after the adoption of the constitution, provided that all property except unimproved lands should be assessed at 6 per cent of its real value, and that such lands should be assessed at 2 per cent. This was obviously a classification of property, and it continued to be the law of the Commonwealth until its repeal in 1828 without any question being raised concerning its constitutionality. Another law of 1781² levied a duty upon coaches, chariots, and carriages, and required the inhabitants of the Commonwealth under oath to make returns of such property to the local assessors. This was in everything except name a direct tax upon property, and could not have been upheld as an excise or duty except under such a broad construction of those terms as to render meaningless the distinction between the taxing power and the excise power. It also passed without question.

The meaning of the word "proportional" was considered by the Supreme Court for the first time in the case of *Portland Bank v. Apthorp* (12 Mass. 252), which involved the constitutionality of the tax levied upon state banks in 1812. The court upheld this tax as an excise, but took occasion to say that it could not be sustained as a tax because it was not proportional. Altho this was a mere dictum, it inevitably carried great weight fifty years later when the next case arose; and yet if the dictum of the court was correct, it followed that the province of Massachusetts had never had anything remotely resembling a proportional system of taxation, and that the legislature of the state only a year after the adoption of the constitution had established an unconstitutional classification of real estate which was still in force, and under the guise of an excise had levied

¹ Ch. 16 of 1781.

² Ch. 17 of 1781.

an unconstitutional tax upon certain other classes of property.

When the savings bank tax came up for consideration, the court, following the reasoning of *Portland Bank v. Apthorp*, upheld it¹ as an excise or duty on the franchises of the banks, even tho, unlike the bank tax of 1812, it was in lieu of local taxation of the deposits. The earlier decision had merely upheld an excise that was in addition to the property tax. The latter, however, made it possible for the legislature, wherever it could levy a valid excise, to exempt from local taxation the property which in effect had been excised. The door was opened, therefore, for a considerable extension of the excise power, and the legislature soon took advantage of the opportunity. Another important effect of the decision was to commit the court to the general line of reasoning followed in the earlier case, and to make it probable that, if the question ever arose, the dictum laid down in *Portland Bank v. Apthorp* would become a decision to the effect that a tax, in order to be constitutional, must be proportional in the strictest sense of that word.

Cases involving this question were not long in coming before the court, and it was presently held that the constitution required taxes on property to be so laid that, "taking 'all the estates lying within the Commonwealth' as one of the elements of proportion, each taxpayer should be obliged to bear only such part of the general burden as the property owned by him bore to the whole sum to be raised."² Thus the tax clause of the constitution was finally interpreted in such a manner as to make it prescribe strict uniformity in taxation.

¹ 5 Allen, 428, 431, and 433.

² *Oliver v. Washington Mills*, 11 Allen 275. See also 12 Allen 298 and 312; 118 Mass. 386; 133 Mass. 161; 134 Mass. 424; 195 Mass. 607.

In 1864, the general corporation tax was enacted, and, like the savings bank tax, was sustained by the court as a valid excise. As is well known, it left the real estate and machinery of corporations subject to local taxation, and then imposed upon corporations a franchise tax which was to be assessed upon the so-called "corporate excess," or the amount by which the value of the capital stock exceeded the value of the real estate and machinery locally assessed. As the shares of the corporations were thereafter exempt from local taxation and the corporation tax was administered by the state, the law of 1864 introduced another radical change in the tax system of Massachusetts. But since the rate of taxation on the corporate excess was the average rate levied upon property in the Commonwealth, the law involved no departure from the principle of the general property tax, and in this respect differed radically from the tax on savings banks. Except for the arrangement by which double taxation of the stock and of certain tangible property of corporations was avoided,¹ the only real change wrought by the law of 1864 was that thereafter the state dealt directly with corporations and the stock-holders were exempted from local taxation. The change effected, therefore, was chiefly of an administrative character, and there was no intention that corporations should pay either more or less taxes than the general mass of property subject to local taxation.

The establishment of the national banking system was followed by the conversion of state into national banks, and this required changes in the tax law. The final outcome was the establishment in 1873 of the present tax upon the shares of national banks, which, being

¹ Manufacturing corporations had been relieved from double taxation in 1832 by a law (ch. 158 of 1832) which provided that, in assessing the stock of such corporations, the local assessors should make a suitable deduction for the value of real estate and machinery already taxed.

levied at the local rates of taxation, results theoretically in taxing banks in the same manner as other property. In 1874, therefore, Massachusetts was collecting from the savings bank, the general corporation, and the national bank taxes \$4,875,000 of revenue, which was over seven times the revenue derived from the old bank tax in 1861. The system had begun to be diversified, but except in the case of savings banks no departure had been made from the principle of the general property tax.

Without doubt the new taxes were more effective in reaching corporate property than the old methods of local assessment, so that perhaps the greater part of the revenue derived therefrom in 1874 represented an increase of financial resources. But this increase had not been sufficient, as we have seen, to prevent a rise of local tax rates under which conditions were rapidly going from bad to worse.

Boston was probably the first and also the chief sufferer. Mr. Thomas Hills, an able and determined advocate of the general property tax, was made one of the principal assessors in 1865, and in 1866 became chairman of the board. He increased greatly the efficiency of the assessing department, and inaugurated a vigorous search for taxable property under which Boston valuations rapidly increased. In 1860, the real estate of the city had been assessed at \$163,891,000, and the personal property at \$112,969,000. In 1865, these figures had been increased, respectively, to \$201,628,000 and \$170,263,000. By 1870, Mr. Hills had raised the real estate assessment to \$365,593,000 and the personal to \$218,496,000; and in 1872, had raised the former to \$443,283,000 and the latter to \$239,440,000. Account must be taken, of course, of the annexation of Roxbury and Dorchester, which added materially to the total

valuation; but even when this is done, the results secured by Mr. Hills were sufficiently striking.

But things were not working out as expected because personal property was rapidly migrating from Boston. Removals to the suburbs had been going on for many years, as is evidenced by the fact that before the middle of the eighteenth century it was necessary to amend the tax laws by providing that merchandise employed in any city or town should be taxable in that city and not at the domicile of the merchant. But under Mr. Hills there ensured a veritable hegira under which the attractive suburbs of Boston were rapidly build up at the expense of the city's tax rolls. The most striking case was that of Nahant, which in 1865 had assessed \$513,000 of real property and \$12,710 of personal, its tax rate standing at \$15 per \$1000. In 1870, however, thanks to Mr. Hills, its realty was assessed at \$985,000, and its personality at \$4,160,000, while its tax rate had dropped to \$2.50 per \$1000. Between 1869 and 1873 not less than \$13,900,000 of taxable personal estate was removed from Boston to eight suburban towns and to Newport, Rhode Island. Naturally enough, in time, such removals more than offset the diligence of Mr. Hills and his minions. The assessment of personal property reached high water mark in 1874 when it stood at \$244,554,000. Thereafter it steadily decreased until it reached low water mark in 1879 at \$184,545,000. But even in 1874 Mr. Hills had failed to increase the proportion of the taxes paid by personal property. In 1860, personality constituted over 40 per cent of the total assessment, and in 1865 formed even a larger percentage. But in 1874, altho the total personal assessment had increased by some \$74,000,000, the assessment of real estate had been raised 175 per cent, with the result that personal property formed less than 31 per cent of the total assessment.

In the entire state, as we have seen, personal property had constituted over 36 per cent of the local assessments of \$551,000,000 in 1850. By 1874, however, it accounted for 29.6 per cent of the total assessment of \$1,831,600,000. Allowance should be made for the fact that the savings bank, the general corporation, and the national bank taxes had removed a large amount of property from the category of "taxables," but only a small proportion of such property had ever been placed upon the assessment lists, and therefore the corporation taxes made comparatively little difference with the local assessments. In 1861, for instance, the deposits in the savings banks of Massachusetts amounted to \$44,785,000, and of this sum the local assessors had taxed only \$9,655,000. No similar comprehensive data concerning local taxation of the stock of Massachusetts corporations and of national banks are available; but in 1864 when, under the operation of the general corporation tax, the shares of Massachusetts corporations were exempted from taxation, the local assessments upon personal property decreased only from \$343,500,000 to \$324,600,000. In 1873, also, when the bank tax went into operation, the local assessments upon personal property decreased from \$565,294,000 to \$537,388,000. While, therefore, the total assessment of personal property for local taxation in 1874 would have been somewhat larger but for the changes wrought by the new corporation taxes, there had been a gradual shifting of taxation from personality to real estate. Even if we estimate the reductions caused by the corporation taxes at the very generous figure of \$70,000,000, there would still remain a shrinkage of some 2 per cent in the proportion which personal property bore to the total local assessments. For a time, however, this tendency was probably offset by the fact that the new corporation

taxes succeeded in reaching taxable values which would have eluded local assessment.

Since the poll tax was now fixed at what was practically a uniform charge of \$2.00, the burden of taxation had shifted very greatly from polls to property. In 1874, polls were assessed for \$877,700 in a total of \$33,556,000, or for no more than 2½ per cent, which contrasts strikingly with the proportion of 16½ per cent established by the law of 1814.¹ The taxes paid by corporations amounted to \$4,875,000 in 1874, and constituted 14½ per cent of the total. Local taxes upon personal property amounted to \$8,229,000, or 24.6 per cent; and those assessed upon real estate were \$19,573,000, or 58.4 per cent. Thus it appears that the reduction in the proportion of the taxes falling upon polls had been made up by the new corporation taxes; polls and corporations were paying in 1874 fully 17 per cent of the total taxes, whereas polls were required to contribute 16½ per cent under the law of 1814, and somewhat less than that under the law of 1829. But the corporation taxes were in effect taxes levied upon property, so that what the figures really show is that the proportion of the total taxes falling upon property had increased from 83½ per cent in the early part of the nineteenth century to 97½ per cent in the year 1874.

If we assume that the whole of the corporation taxes were levied in respect of personal property,² and therefore combine them with the taxes levied locally upon

¹ Of course the limitation placed by the Act of 1829 upon the local levy on polls tended to reduce appreciably the proportion of the total taxes falling upon polls, but up to 1850 the increase in the amount of taxes levied had probably not been sufficient to reduce the poll tax to a negligible factor.

² In fact some part of the general corporation tax represented real estate values, since, under a decision of the Supreme Court, the right of way of railroads and some other classes of public service corporations is exempt from local taxation. This decision had relieved such property from taxation up to 1864, but after that it merely increased the taxable corporate excess upon which the general corporation tax was levied. See *Quarterly Journal of Economics*, vol. xxi, pp. 185 and 218.

personality, we find that the total contribution of personal property was \$13,105,000, or 39.1 per cent of all the taxes levied in the Commonwealth. This left 58.4 per cent of the total taxes to be paid by real estate. Compared with 1850, therefore, we find that the contribution of personal property to the total public revenue, state and local, had increased to 39.1 per cent, while the contribution of real estate had increased to 58.4 per cent.

IV

Following the critical period which ended in 1874, came thirty-three years of comparative calm during which disintegration of the general property tax gradually and quietly continued. In 1874, dissatisfaction with the working of the tax laws led to the appointment of the first special commission to investigate the subject. This commission was composed of able men and submitted in January, 1875, a report that is replete with information. It was, however, dominated in its thought by Mr. Hills, who seems to have been the most influential as well as the most active member. The report recognizes existing evils, but does not understand their cause. It assails vigorously the proposal, made by the New York tax commission of 1871, to exempt personal property from taxation, and recommends merely changes in various details of the tax laws. For the evils attending the taxation of personal property the commission could make no more hopeful recommendations than that certain changes be made in the provisions of the law relating to offsets for indebtedness and the matter of domicile.¹ It was unfortunate for the Com-

¹ Report of the Commissioners Appointed to Inquire into the Expediency of Revising and Amending the Laws Relating to Taxation and Exemption, 101, 121. H. Doc. 18 of 1875.

monwealth that its tax laws could not be radically altered in 1875, but the principle of the general property tax was undoubtedly approved by all but a small minority, and that minority had little more to propose than exemption measures designed to relieve certain kinds of personal property from taxation. All things considered, it seems probable that Mr. Hills and his associates voiced very faithfully the prevailing opinion of the state.

In the years that followed, discussion of tax problems was confined principally to the subject of double taxation. An organized effort was made to bring about the exemption of mortgages secured by Massachusetts real estate; and this was practically accomplished in 1881, when the present law upon that subject was enacted. Under that act a note secured by a mortgage of taxable real estate in Massachusetts is exempt from taxation as personal property; and the interest of the mortgagee in the real estate is taxable to him as real estate in the place where the land lies, while the mortgagor is taxable only for his equity in the property. Since, however, the law does not prohibit contracting out, mortgages invariably provide that the mortgagor shall assume all taxes; and the practical result is that real estate is taxed to the mortgagor at its full value, while the mortgage note is exempt. This law had the effect of exempting from taxation about \$48,000,000 of mortgage debts reported as assessed for taxation in 1881. But the assessment of personal property throughout the state decreased by only \$3,600,000 in 1882, and the following year it was \$6,900,000 larger than it had been before mortgages were exempted.¹

¹ These figures, as well as those given above concerning the operation of the corporation taxes, may be found on pp. 36-38 of the Report of the Commission on Taxation of 1907.

Advocates of the general property tax interpreted these figures as meaning that the loss of \$48,000,000 of taxable mortgages was offset by the natural increase of other personal property, and reasoned as if the assessment for 1883 might have been not \$6,900,000 but \$54,900,000 greater than the assessment for 1881 if mortgages had not been exempt. In fact, however, things would not have worked out that way. The exemption of mortgages nominally relieved \$48,000,000 of personal property from local taxation. But, in reality, very few of the owners of such property had previously been assessed for their entire personal estates as the law directed, or had made returns of their taxable property. Except in cases where a person's property consisted largely of mortgages and he could therefore make a return to his assessors that reduced his taxable personality below the amount for which he was assessed in 1881, tax payers who had been "doomed" for a given amount of personal property in 1881 had no interest in coming forward in 1882 with statements of their taxable personality. They were presumably assessed for as much personal estate as in 1881, and therefore received no benefit from the mortgage exemption. The situation was like that which developed later when, in order to encourage forestry, new plantations were exempted from taxation for a stated period of years. This exemption was of absolutely no benefit to the average farmer because his farm was usually assessed for somewhat less than it was worth and the assessors could add to the rest of the farm all that they were obliged to take off from the plantation. We are not to suppose, therefore, that, if mortgages had not been exempted in 1881, the assessment of personal property in 1883 would have increased by \$54,900,000 instead of \$6,900,000 as it actually did.

After 1881 few changes in the tax laws occurred for many years. Until 1906, indeed, the only significant development was the introduction, in 1891, of a tax upon collateral inheritances and successions. In point of fact, tax legislation in Massachusetts was in a state of deadlock.

Advocates of change, who were increasing in numbers, labored to secure the exemption of foreign corporation stocks, and sometimes urged the total exemption of all intangible property. Upon the other hand, the assessors of the state, who numbered considerably more than 1000, had been organized by Mr. Hills and others into a state-wide association which was able to offer determined resistance to any and all exemption measures.

Advocates of the existing system proposed various measures to make the tax laws more effective, of which the most important were the appointment of assessors by some state authority and the taxation of personal property at a uniform rate which should be the average imposed upon real estate subject to local taxation. Either of these measures would have wrought havoc to the state, since the time had passed when it was possible to enforce the taxation of personal property at the prevailing local rates or at an average state rate. Such taxation would have meant confiscation of one-third or one-fourth of the tax payers' incomes, and would have led to wholesale removals of property from Massachusetts. As things stood, the tax laws resulted in what was aptly described as a "system of confiscation tempered by favoritism." The legislature was not disposed to grant further exemptions that might increase the burdens falling upon taxable property; and, upon the other hand, it probably realized that the existing laws were not capable of strict enforcement, and therefore was not disposed to adopt the drastic measures favored by the assessors.

In 1893, a joint special committee of the legislature was appointed to revise the laws relating to taxation; and the following year reported against radical changes in the taxation of property.¹ But conditions were going from bad to worse, so that in 1896 a special commission was appointed to inquire into the expediency of revising the tax laws. The following year this commission submitted a noteworthy report which grappled squarely with the problem confronting the Commonwealth. It investigated searchingly the practical operation of the existing system, and recommended that intangible property be exempted from taxation. It realized, however, that a substitute or substitutes should be found for the tax upon intangibles, and therefore recommended that the inheritance tax should be extended to direct inheritances, and that a habitation tax should be introduced which should be levied upon house rentals in excess of \$400.²

Altho this plan provided substitutes for the existing tax upon intangible property, the legislature was not ready for radical departures from the existing system, and therefore the recommendations of the commission bore no immediate fruit. But the report effectively exposed the evils of the existing system, and pointed out their cause. It therefore served as the starting-point for subsequent discussion, and proved to be a document of great educational value. In 1906, another joint-special committee on taxation was appointed which recommended no radical changes in the property tax but advocated the taxation of direct inheritances, which

¹ Sen. Doc. 9 of 1894. The above statement relates to the majority of the committee. Minority reports favored the exemption of stock of foreign corporations and the exemption of state and municipal bonds.

² Report of the Commission Appointed to Inquire into the Expediency of Revising and Amending the Laws of the Commonwealth Relating to Taxation, 120 (Boston, 1897). The Commission also recommended that the state should retain in its treasury the revenue from the general corporation tax, and should then assume county expenses.

was finally carried into effect by an act of 1907.¹ A minority of the committee, reverting to the recommendations of the commission of 1896, advocated the exemption of intangible property from taxation but proposed no substitute.

Meanwhile, the general property tax was steadily disintegrating and producing conditions which were certain to lead ultimately to revision of the tax laws. Public expenditures, which had greatly declined during the period of retrenchment following 1874, were again upon the increase. The total taxes of all descriptions levied in the Commonwealth had decreased from \$33,674,000 in 1874 to \$25,714,000 in 1879, but by 1890 they had risen to \$39,731,000, and by 1905 had reached the imposing total of \$72,121,000. The per capita tax burden, which in 1874 had been \$20.87, in 1905 was \$24.01, and local tax rates were again increasing. From 1874 to 1879, during the period of enforced economy, the average tax rate in the state had declined from \$15.51 per \$1000 to \$12.78. During the next fifteen years the average hovered around \$15, but by 1900 it had risen to \$16.14, and in 1905 it stood at \$17.25. Under such conditions the evils which were serious enough in 1874 were gradually becoming intolerable.

One result of the heavier pressure of taxation was an increase in real estate valuations, especially in the cities. The mere desire to obtain revenue without undue increase of tax rates would have led, in any event, to somewhat higher valuations; but this tendency was increased by the operation of the law of 1875 limiting city debts, and that of 1885 limiting city tax rates. Under these acts many cities were obliged to increase real estate valuations in order to provide the necessary margin for loans and to keep tax rates within the

¹ Report of the Joint-Special Committee on Taxation (Boston, 1907).

specified limit. If this had resulted merely in changing the old-fashioned practice of valuing property at "about" one-half or two-thirds of what it was worth, it would have been a matter for congratulation. But in some cities it finally resulted in valuations so high as to be clearly excessive. There are today within the metropolitan district not a few municipalities in which it is difficult to sell real estate for its assessed valuation and transfers are frequently made at much lower figures.

Tangible personal property was seriously affected by the high rates of taxation, but in many cases had a comparatively easy method of escape, namely, incorporation. Merchants and manufacturers who found themselves more heavily taxed upon their goods, wares, or merchandise than their competitors in other states could incorporate under the laws of the Commonwealth and come under the general corporation tax. Under this tax, real estate and machinery remained subject to local taxation, and the rest of the property of corporations was supposed to be fully reached by the tax which the state levied upon the so-called "corporate excess." In practice, however, it developed that whereas an individual or a firm was taxable upon all property without deduction of debts except against the item of credits, the corporation was able to deduct the whole of its indebtedness from its assets taxable under the corporation tax. This circumstance, with others, brought it about that in 1902 the manufacturing and mercantile companies subject to the corporation tax owned merchandise valued at \$143,604,000, and had a taxable corporate excess of no more than \$104,238,000. It is clear, therefore, that the effect of the corporation tax was even at that time to enable incorporated companies to reduce the tax upon their merchandise, or at any rate to reduce it below what it would be if the local assessors assessed

it at its true value. In 1903, a maximum limit was placed upon the corporate excess, which had the effect of enabling many concerns to secure a further reduction of their taxes. While in individual cases the corporation tax was fully as heavy as the local tax upon unincorporated enterprises, and in some cases even heavier, there can be no doubt that, upon the whole, manufacturing and mercantile concerns found incorporation an easy method of escape from increasing burdens of local taxation.¹ In extreme cases it was possible to arrange matters so that an incorporated mercantile concern secured exemption from local taxation upon its merchandise, and then, after deducting its debts, had no corporate excess to be taxed by the state.

Other kinds of tangible personality did not fare so well. Live stock is employed in an industry where incorporation is highly uncommon. Machinery is expressly excepted from the operation of the corporation tax, and is very heavily taxed in some localities. In textile centers it sometimes forms a very large percentage of the total valuation, as may be seen by looking at the assessments of personal property in such cities as Fall River and New Bedford.² In some cases it is supposed that manufacturers and assessors have working agree-

¹ The operation of the tax upon the corporate excess of manufacturing and mercantile companies is so complicated that it cannot be adequately treated in this paper. I may refer to my article upon the taxation of corporations in Massachusetts, published in the *Quarterly Journal of Economics* for February, 1907. The subject has been fully discussed in recent annual reports of the tax commissioner and in a special memorandum prepared for the legislative committee on taxation in May, 1916 (H. Doc. 2133 of 1916).

² Of a total valuation of \$106,691,000 in 1915, the personal property of Fall River accounted for \$42,707,000, or slightly over 40 per cent. In New Bedford, in the same year, out of a total valuation of \$111,346,000, personal property accounted for \$41,845,000, or approximately 37 per cent. These percentages are to be compared with an average of about 25 per cent in the total assessment in the state. Fall River and New Bedford do not tax very large amounts of intangible personal property, so that it is probable that the greater part of the taxable personality in those cities consists of machinery.

ments under which machinery is assessed at a certain proportion of its actual value, and in other localities it is probable that machinery is taxed upon something less than a full valuation. But, upon the whole, it is reasonable to conclude that machinery is very heavily taxed in Massachusetts, and probably more heavily than in most other states.

Intangible personality found several avenues of escape. In the first place, it tended more and more to leave communities where tax rates were high, and to concentrate in a number of attractive residential towns where taxpayers could virtually fix their own assessments. Between 1871 and 1891 not less than \$75,000,000 of personal estates assessed in Boston through the diligence of Mr. Hills were removed to fifteen favorite towns. In the former year these towns had assessed \$26,750,000 of personal property; in the latter their personal assessments had advanced to \$52,558,000 — an increase of \$25,808,000. Even if we assume that during the interval there had been no increase of personal property except the \$75,000,000 gained by the removal of certain taxpayers from Boston, it would appear that the local assessors had taxed but one-third of these estates. In 1882, one town received an estate assessed in Boston at \$800,000, and in the following year increased its assessment of personal property by no more than \$281,000, but was able nevertheless to reduce its tax rate from \$11 to \$7 per \$1000.¹

In this connection it should be noticed that the method which the state followed in distributing among the cities and towns the revenue from the corporation and the bank taxes tended still further to give taxpayers the whip hand over the assessors. The general principle was to divide this revenue according to the residence of

¹ See Report of the Commission on Taxation (1908), pp. 45-46.

the stockholders;¹ and this brought it about that, when a wealthy taxpayer changed his residence, the town to which he removed received an increased share of the corporation and bank taxes. The result was that assessors knew that strict enforcement of the tax on intangible property would not only lead to the removal of such property to some other jurisdiction, but would decrease the amount of corporation and bank taxes received from the state treasury.

As years passed, the distribution of intangible property, and of the corporation and bank taxes, became more and more favorable to the wealthy towns. In 1865, before the process of concentration had begun, the fourteen wealthiest towns had derived a revenue of \$6.87 per capita from local taxes on personal property and the corporation and bank taxes, while in the rest of the state the revenue from these sources amounted to \$5.81. Twenty years later these fourteen towns were receiving \$14.28 per capita, while the average for the rest of the state had fallen to \$4.48. In 1905, the revenue of the fourteen towns had increased to \$24.01 per capita, while that of the rest of the state amounted to \$5.35, a trifle more than the figure for 1885 but materially less than the amount received in 1865. Somewhat similar conditions can doubtless be found in other states and countries, but it is probable that the student of taxation would have difficulty in finding elsewhere such extreme concentration of taxable resources as was gradually brought about in Massachusetts after 1865. The only possible result was the creation of inequalities by which the rates of taxation in the cities

¹ In 1898, the first departure from this principle was made when it was provided that the tax paid by street railroads should be distributed among cities and towns where the tracks were located. Subsequently, the distribution of the tax on other corporations was modified in the interest of the industrial towns where such enterprises were located.

and industrial towns were greatly increased, while they were lowered to almost nominal figures in a handful of wealthy communities.¹

But overburdened taxpayers had still another method of escape; they could change their investments. Prior to 1862 this opportunity had not been open to them, since practically every form of investment was taxable. But when savings deposits were exempted from taxation, it was possible for people of means to make increased use of the savings banks. That this was done almost from the outset, there can be little doubt;² and it is certain that no small part of the very large deposits of Massachusetts savings banks today are held by people of means. Another door was opened by the great increase of the Federal debt during the civil war, which supplied investors with upward of two billions of non-taxable securities. The establishment of the corporation tax in 1864 placed the stocks of Massachusetts corporations in the list of so-called non-taxables. At first this may not have affected the situation, but in time there was created an artificial demand for tax-exempt stocks which were bought in large quantities by trustees and some others who were not in a position to change their domicile and could not well avoid making returns of personal property. The exemption of mortgages in 1881 created another class of untaxed investments, so that altogether a rather wide range of opportunities was open to persons acquainted with the provisions of the law.

In many cases untaxed securities were bought for permanent investment, so that no evasion of the tax laws was either contemplated or practised. But it was

¹ This subject was first carefully studied by the Tax Commission appointed in 1896. See Report 63-68.

² See the Report of the Tax Commission appointed in 1874, p. 61 *et seq.*

now possible to invest temporarily in non-taxables for the purpose of escaping assessment upon taxable securities. This could be done only a day or two before the date of assessment in any year, and there developed a regular spring demand for securities that could be held over assessment day and then returned to their former, — perhaps one might say actual — owners. In other cases the practice was different but the result the same. Comparatively few investors ordinarily made returns of their personal property, and intangibles were usually taxed by "doomage." This meant that assessors would begin with a small assessment, and then, if the taxpayer did not make a declaration of his property, would subsequently increase it. In time the assessment might reach a figure that would compel the taxpayer to seek relief, and this could be had by shifting his investments from taxables to non-taxables until he could make a full return of his personal property under oath. Such a statement would probably satisfy the curiosity of the assessors for a number of years, so that after making it the taxpayer could at the first favorable opportunity sell his non-taxables and reinvest in taxable securities. There has probably been comparatively little downright lying in the taxation of personal property in Massachusetts; perjury is an ugly thing, and the law did not make it necessary. Intangible property nevertheless managed to evade assessment, and could do so in many cases without change of the taxpayer's domicile.

The next result was that personal property paid a constantly decreasing proportion of the local taxes. In 1907, out of a total local assessment of \$3,512,000,000 in the state of Massachusetts, personal property accounted for no more than \$766,600,000, or 21.8 per cent; whereas in 1891 it had constituted 25.2 per cent of the total valuation, and in 1871 had constituted 33.8 per

cent. At the end of this period it can be estimated that about half of the personal property actually taxed consisted of intangible personality.¹

In the distribution of the total burden of state and local taxation some changes had occurred since 1874. In 1907, polls were assessed for \$1,758,000 of taxes, or 2.4 per cent of the entire amount. The tax, however, was not so easy to collect as in former years, and the actual contribution made by polls was somewhat less than the percentage just stated. Since 1874 the liquor license tax had come into operation, and this, with some minor business taxes, amounted in 1907 to \$3,453,000, or 4.7 per cent. The collateral inheritance tax introduced in 1891 now yielded \$772,000, or about one per cent of the total. The corporation taxes amounted to \$9,761,000, or 13.2 per cent. The taxes levied locally upon personal property stood at \$12,386,000, or 16.8 per cent; while those levied upon real estate amounted to \$45,794,000, or 61.9 per cent. Comparison with the figures for 1874 shows that polls were assessed in 1907 for substantially the same proportion as in 1874, that personal property and corporations accounted for 30 per cent of the total against 39 per cent in the former year, and that real estate paid 61.9 per cent of the total taxes against 58.4 per cent at the beginning of the period. The net result was that the proportion of the taxes paid by personal property and corporations had decreased by some 9 per cent, and that this had been made up by business and inheritance taxes, which now contributed 5.7 per cent, and by an increase in the real estate taxes of something more than 3 per cent.

A new chapter in the history of taxation in Massachusetts opened in 1908. In the previous year the

¹ See Report of Commission on Taxation (1908), pp. 40 and 67. Compare also the data found on pp. 50-51 of the Report of the Commission of 1896.

inheritance tax was extended to direct inheritances, and this brought the whole property of inhabitants of the state under review by the tax commissioner's department. Up to that time the local assessors had not infrequently gained information from probate returns. But since no tax was imposed upon direct inheritances, it was often possible for executors to avoid disclosing the amounts of probated estates, a request from all the heirs that no inventory be filed being sufficient to accomplish this end. With a direct inheritance tax in operation it was no longer possible to avoid filing inventories, and this fact alone would have altered materially taxation conditions in the Commonwealth.

V

Another law enacted in 1908 hastened the inevitable crisis. The tax commissioner, in 1898, had been given certain supervisory powers over the local assessors,¹ and thus the first step had been taken toward the establishment of central control over the assessment of property. The commissioner, however, was given but a single assistant to carry on the work of supervision, and there was no direct inheritance tax which enforced the filing of inventories of all estates; so that prior to 1908 his supervisory power had not been effective enough to alter materially the situation. But in that year a law was enacted² by which the powers of the tax commissioner were extended, and he was authorized to appoint three supervisors of assessors to assist him in the performance of his new duties.

The act stopped short of authorizing him directly or through the supervisors to revise local assessments, and merely authorized him to direct the local authorities to

¹ Ch. 507 of 1898.

² Ch. 550 of 1908.

assess property in the manner prescribed by law. In case local assessors failed to comply with such directions, the commissioner could merely notify the mayor of the city, or the selectmen of the town, of such failure, a provision which becomes almost humorous when one recalls that in many of the towns the selectmen are also the assessors. The tax commissioner was indeed authorized to cause an assessor guilty of any violation of law for which a penalty was imposed, to be prosecuted in the county courts, but for various reasons this did not meet the needs of the case. It therefore happened that in some instances the local officials refused to obey the directions of the commissioner; but in a majority of cases his recommendations met with substantial compliance, so that the Act of 1908 proved fairly effective. It at least created machinery by which information coming to the probate courts under the operation of the direct inheritance tax was systematically gathered by the supervisors of assessors and transmitted to the taxing authorities of the cities and towns. After 1907, therefore, the local taxing authorities were continually supplied with more information about taxable personality than they had ever possessed before, and in some cases more than they desired to possess. Up to this time the general property tax had been undergoing a gradual process of disintegration; it might have lasted many years longer if no provision had been made for stricter enforcement. But the law of 1908 rapidly produced conditions under which a fundamental change in the system soon became inevitable.

Another factor that contributed to the same result was the growth of private agencies for collecting and distributing information concerning the ownership of corporation stocks. Foreign corporations doing business in Massachusetts were required to file lists of their

stockholders with the secretary of state, and these lists supplied a mine of interesting information. Others could sometimes be reached by examining lists filed in other states, or by purchasing a share of stock and then demanding the right to examine stock books. In recent years, therefore, Massachusetts assessors have been able to procure, if they desire it, a large amount of information concerning taxable corporation stocks; and the result has been a fuller assessment of such property than was formerly possible.

There naturally followed a substantial increase in local assessments of personal property. From \$766,600,000 in 1907 the figures advanced to \$930,817,000 in 1910, to \$1,033,000,000 in 1912, and to \$1,195,100,000 in 1915. During the entire period of eight years the total increase was \$428,500,000, which was practically equal to the total increase in local assessments of personal property between 1861 and 1907. The following table shows the facts for significant years:

STATISTICS OF TOTAL AND PERSONAL PROPERTY ASSESSMENTS IN MASSACHUSETTS

Year	Total Valuation	Valuation of Personal Property	Percentage of Personal Property
1850	\$551,106,000	\$201,977,000	36.0
1861	861,500,000	309,400,000	35.9
1874	1,831,600,000	542,300,000	29.6
1881	1,642,200,000	498,300,000	30.2
1907	3,512,600,000	766,600,000	21.8
1915	4,769,900,000	1,195,100,000	25.1

It will be seen that, after declining for fifty-seven years, the proportion of personal property in the total valuations increased from 21.8 per cent in 1907 to 25.1 per cent in 1915. This was a substantial achievement for the supervisors of assessors, but its effect was not what was anticipated. In the first place, the property

thus listed tended to disappear from the tax rolls in a comparatively short time through changes in investments or domicile. Prior to 1908 domiciliary changes had been mostly within the state, and the tax laws had probably driven little property out of Massachusetts, altho they had doubtless prevented a certain amount from coming here. But after that year removals became increasingly frequent, and presently threatened serious injury to the Commonwealth. Precise data on the subject are, of course, very difficult to obtain; but by 1914 it was estimated, and generally believed, that the property removed from Massachusetts in that year was not less than \$100,000,000. Whatever the exact amount may have been, it was now large enough to attract public attention, and to affect materially the attitude of lawyers and bankers who were in a position to know what was going on.

The second natural result was to increase greatly the demand for non-taxable investments; and, inevitably, a greater demand began to create a greater supply. The manufacture of non-taxable preferred stocks of Massachusetts corporations became a regular industry; and, as was natural under the circumstances, some of the new securities proved to be of doubtful solidity. In 1907, the number of new corporations organized under the business corporation law was 1,234, having a total capital of \$63,372,000. By 1912, the number of such corporations was 1,453, having a capital of \$213,466,-000. Thereafter there was somewhat less activity among promoters, but both the number of companies and the total capital remained much larger than had ever been known. In 1913, 1914, and 1915, the business corporations organized were, respectively, 1,504, 1,604, and 1,700; while the figures of the total capital were, respectively, \$172,103,000, \$123,211,000, and \$113,-

509,000. Unfavorable business conditions may have been partly responsible for the decrease that followed 1912, but another probable cause was a growing distrust of the new securities.

A third result was to stimulate greatly migration to the favored residential towns. Whenever the assessors in the ordinary city or town, acting upon the information furnished by the supervisors, increased materially the assessment of personal property, some favored town immediately acquired new inhabitants. The average rate of taxation in the state was gradually increasing from about \$17 per \$1000, the figure for 1907, to \$18, and finally \$19. But in the wealthy residential towns tax rates were often less than \$10 per \$1000, and valuations were low. Such conditions could not be permanent.

Some of the developments in particular localities during this period deserve to be mentioned. The town of Norwood in 1908 had a tax rate of \$26.50, and at that juncture the assessors received information concerning \$2,000,000 of taxable estates, which amounted to more than one and one-half times the existing assessment upon personal property. If matters had taken the usual course, these estates would have been taxed for a sum that would have absorbed fully half of the income, and would presently have been removed from the town. But under exceptionally fortunate and able leadership Norwood decided to try to assess all property at its full value, and thereby reduce the rate of taxation to a tolerable figure which would not drive any citizen away. Accordingly, in 1909 the valuation of real estate was increased from \$4,739,000 to \$7,680,000, while that of personalty was raised from \$1,361,000 to \$6,118,000. This resulted in an increase of over 125 per cent in the total valuation, and, together with a

reduction in the tax levy, reduced the rate of taxation to \$8.50. For the moment the crisis was averted. But the tax rate was still higher than intangible property could bear permanently; and in subsequent years the assessment of personal property gradually declined, while, despite further increases in the valuation of realty, the tax rate began to increase. In 1915, the assessment upon personality was half a million less than in 1909, while the tax rate had increased to \$12.80. Norwood had shown that exceptional conditions might enable an industrial town to enforce the tax laws without inviting immediate disaster; but its subsequent experience demonstrates that not even such conditions will avail in the long run.

Stimulated by the example of Norwood or urged by the supervisors of assessors, a few other localities sought to enforce strictly the existing tax laws, but with very different results. The city of Malden in 1909 increased the assessment of personality from \$6,734,000 to \$12,751,000, and reduced its tax rate from \$19.20 to \$15.70; but by 1912 the assessment of personality had declined to \$8,438,000, and the tax rate had returned to the figure for 1908. Meanwhile, a number of wealthy residents had changed their domicile, and the city had lost a substantial amount of revenue from corporation taxes. Between 1909 and 1911, the city of Quincy increased the assessment of personality from \$5,813,000 to \$7,830,000, and reduced its tax rate from \$20.40 to \$19.50. But two years later the personal assessment had sunk to \$6,254,000, while the tax rate had advanced to \$23.70. Salem tried the same experiment between 1909 and 1912, increasing its personal assessment from \$9,821,000 to \$10,617,000, and reducing its tax rate from \$18.60 to \$18. But in 1913, nearly a million of personal property disappeared from the tax roll, and the tax rate advanced

to \$20.50. Such examples were sufficient to deter other localities from attempting to emulate the example of Norwood.

The other side of the picture may be seen by turning to some of the small residential towns. In 1908, Dover had assessed \$470,000 of personal property and \$931,000 of realty, and had a tax rate of \$9.80. In the following year the assessment of personal property jumped to \$4,296,000, and the tax rate fell to \$4.30. This suddenly acquired wealth was thereafter retained, and, in fact, increased to \$6,925,000 in 1914, in which year the tax rate was \$5.50. The town of Rowley in 1912 assessed \$170,000 of personal property, and had a tax rate of \$13.00. But in the next year the assessment of personality rose to \$2,088,000, and the tax rate decreased to \$5.50. Tho subsequently changes occurred, Rowley continued to tax a large amount of personality, and remained in affluent circumstances.

The most striking case was that of the town of Orleans, which in 1910 had taxed \$181,000 of personal property at a rate of \$15 per \$1000. The next year the assessment of this class of property increased to \$968,000, and the tax rate fell to \$3. With its reputation thus established, the town continued to increase its taxable wealth until in 1915 the valuation of personality amounted to \$3,941,000, and the tax rate was prevented from reaching the vanishing point only by liberal outlays for improvements. In this case corporation and bank taxes were an especially important factor in the situation. In 1910, Orleans had raised \$10,259 from taxes upon property, and had received only \$1,085 from the state treasury on account of corporation and bank taxes. In 1911, the levy upon property declined to \$4,557, while the revenue from corporation and bank taxes increased to \$10,302. In 1914, the taxes upon

property had increased to \$11,509, as a result of the inflow of personal estates, while the revenue drawn from the state treasury had risen to \$24,883. In that year Orleans enjoyed a revenue of \$37,108 from all sources, including polls, whereas in 1910 it had an income of \$11,982.

In 1915, Orleans showed a tax rate of \$3 per \$1000, the lowest in the state, and seven other towns had tax rates that were less than \$10; fifty-two towns showed rates ranging from \$10 to \$14.80; nine cities and one hundred forty-seven towns showed rates ranging from \$15 to \$19.90; while twenty-six cities and one hundred and eleven towns had rates that ranged from \$20 to \$30. These inequalities persisted in spite of certain changes in the distribution of the corporation taxes, by which the revenue from mercantile and manufacturing corporations was allotted to the localities where the plants were situated and business carried on. Further changes in the distribution of the corporation and bank taxes might improve somewhat the position of the cities and the ordinary agricultural or manufacturing towns, but the distribution of taxable personal property had become so unequal as to make the situation worse than it had been prior to the introduction of the direct inheritance tax and the enactment of the law creating supervisors of assessors. In 1905, the fourteen towns previously mentioned had received \$24.01 of revenue per capita from corporation taxes and the local tax on personal property; while in the rest of the state the revenue was but \$5.35 per capita. In 1915, the figures were, respectively, \$29.50 and \$7.54.¹ Nothing but a

¹ It is worth while to notice the changes that occurred over the whole period from 1865 to 1915. In the former year fourteen favored towns derived a per capita revenue of \$6.87 from the stated sources, and the rest of the Commonwealth \$5.81. In 1915, the figures were, respectively, \$29.50 and \$7.54. Thus the fourteen towns had gained \$22.63, while the rest of the state had gained \$1.73.

radical change in the laws relating to taxation held out any prospect of relief.

From 1907 to 1915 only slight changes occurred in the distribution of the total burden of taxation. Of the total of \$112,280,000,¹ polls were assessed for \$2,055,-000, or 1.8 per cent, which is to be compared with 2.4 per cent for 1907. Liquor licenses and minor business taxes contributed \$3,678,000, or 3.3 per cent, which is 1.4 per cent less than in the earlier year. Corporations paid \$12,484,000, or 11.1 per cent, as against a percentage of 13.2 eight years earlier. The inheritance tax yielded \$3,104,000, or 2.8 per cent of the total, which is an increase of 1.8 per cent over 1907. The taxes assessed upon personal property stood at \$22,180,000,² which was 19.8 per cent of the total, the proportion of personality being 3 per cent greater than at the beginning of this period. Finally, real estate taxes contributed \$68,776,000, or 61.2 per cent, which was 0.7 per cent less than in 1907.

As was to be expected, the introduction of a tax upon direct inheritances led to renewed efforts to secure a better method of taxing personal property. In response to a petition from leading business interests, and upon the recommendation of the governor, another tax commission was authorized in 1907. In the following year this commission recommended³ changes in the distribution of the corporate franchise tax, the exemption of future issues of county and municipal bonds, the appointment of supervisors of assessors, and the introduction of a flat tax upon intangible property — the so-called "three-mill tax."

¹ From this total automobile licenses are excluded.

² In this item is included \$76,644 of revenue paid into the state treasury under the operation of the bond registration tax.

³ Report of the Commission on Taxation appointed under the provisions of ch. 129 of the resolves of 1907 (Boston, 1908).

The first proposal was promptly carried into effect by a law which provided that thereafter the taxes paid by manufacturing and mercantile corporations and distributed among the several cities and towns should be divided equally between the localities where the stockholders resided and those in which the business was carried on.¹ Since previously the whole amount not retained by the state had been allocated to the towns where the stockholders were domiciled, this act tended to mitigate somewhat the growing inequality between the wealthy residential towns and the rest of the state. Subsequent acts² turned over to the towns where business was carried on the whole of the revenue from ordinary business corporations except that part, representing the proportion paid in respect of stock owned by non-residents, which was retained by the Commonwealth. The result was that between 1905 and 1915 the whole amount of revenue received from corporation taxes by the fourteen favored towns previously referred to, decreased from \$10.36 per capita to \$6.20, whereas in the rest of the state it increased from \$1.62 to \$1.93. In 1916, a final act³ provided that the taxes paid by all remaining classes of corporations, except that part representing non-resident stock, should be allocated to the cities and towns where the business is carried on. This leaves only the revenue from the bank tax subject to the old rule of distribution according to the domicile of the stockholders.

The second recommendation of the commission also was accepted. In 1905, the state treasurer had urged that future issues of bonds of the Commonwealth should be exempt from taxation. He showed that of \$84,580,000 of registered bonds then outstanding 70 per cent

¹ Ch. 614 of 1908.

² Ch. 299 of 1916.

³ Chs. 456 of 1910 and 198 of 1914.

were held outside the state, 24 per cent were held by corporations and institutions within the state but exempt from taxation thereon, and only 6 per cent were in the hands of individual inhabitants subject to local taxation.¹ The legislature, accordingly, passed an act exempting future issues of state bonds,² under which it was estimated that the state gained $\frac{1}{2}$ of 1 per cent in the interest rate upon the next issue.³ The cities and towns now came forward with the request that their securities also should be made tax exempt, and the legislature exempted from taxation future issues of county and municipal bonds.⁴

This step was stoutly opposed by most of the remaining advocates of the general property tax. But the practical situation confronting the cities and towns called loudly for a change. No investor would purchase a bond yielding 4 per cent interest with the expectation of paying a tax amounting to 1 $\frac{1}{2}$ or 2 per cent, and accordingly city and town treasurers withheld from the assessors information concerning the ownership of municipal bonds. In some cases, indeed, they made it their policy to inform investors that this was their practice. Little or no revenue was actually derived from the tax upon municipal bonds, while the fact that such bonds were legally taxable tended to limit somewhat the demand and so to increase the rate of interest. Neither the state nor the towns could expect a reduction of interest equivalent to the average rate of taxation, since so many of the bonds were held by corporations and exempted institutions and so few of the remainder were ever taxed, but it is probable that the broader market opened to public securities in consequence of exemption resulted in an immediate reduction of about $\frac{1}{2}$ of 1 per cent in the interest basis.

¹ Treasurer's Report, 1905, pp. 6-7.

² Ch. 493 of 1906.

³ Treasurer's Report, 1906, pp. 8-9.

⁴ Chs. 464 and 594 of 1906.

In time, the exemption of municipal securities opened the door to serious abuse. The city and town officials soon learned that there was a regular demand for tax-exempt securities just before the first day of April in each year, and began to accommodate their offerings to this situation. In January, February, and March, increasing quantities of short term notes maturing after April 1st began to come into the market, which commanded very low rates of interest. In 1911, the total amount of short term notes issued by the towns was \$9,700,000, while by 1915 it had risen to \$15,363,000, an increase of approximately 60 per cent. But the striking fact was that the notes issued in January, February, and March, which were those utilized over the first day of April, increased from \$2,580,000 to \$5,180,000, or more than 100 per cent; while the amount of notes issued in April, May, and June, which could not be so utilized, remained practically stationary, the increase being less than 10 per cent. Complete data for the cities are not available, but the issues of notes recorded in the leading financial papers show the same conditions that developed in the towns. In 1911, these papers reported the issue of \$4,667,000 of city notes during the months of January, February, and March, while in 1916, they reported a total of \$9,870,000, an increase of over 110 per cent. The March issues, which were especially sought around tax day, rose from \$1,460,000 in 1911 to \$5,590,000 in 1916, an increase of nearly 300 per cent. Interest rates upon these issues were very low, sometimes falling below 2 per cent, and in some cases reaching such figures as 1.3 per cent, or even $\frac{1}{2}$ of 1 per cent; while one city actually received a small premium for accommodating an investor with \$100,000 of notes maturing just around tax day. Thus an exemption intended to apply to perma-

nent investments in municipal securities came to be a means of facilitating temporary changes in investments with a view to evading taxation.

The third recommendation of the commission resulted in the enactment of the law, already discussed, by which three supervisors of assessors were appointed and provision was made for distributing among the local boards information about property uncovered in the probate courts. This proposal originated in connection with the plan for a flat tax on intangible property, but was presented separately by the commission with the suggestion that the establishment of a three-mill tax upon intangible property "will remove all reasonable ground of objection to the proposal for state supervision of the assessment of property." Since it has been supposed by not a few people that the supervisor law was proposed with the deliberate intention of forcing a crisis in taxation affairs, it is important to recall the fact that it originated in connection with a plan for establishing a fair and practicable method of taxing intangible property.

The fourth recommendation was that intangible property should be exempted from other taxation, and should then be taxed at the uniform rate of three mills upon each dollar of the fair cash value, or \$3 per \$1000. Since such a tax would be levied at the same rate in every city and town, taxpayers would have no inducement to change their domicile; and since it would substitute a reasonable for a confiscatory exaction, it could be strictly enforced without driving people out of the state. It was based upon a plan which had been tried in Pennsylvania and Maryland with no little success, and was subsequently adopted by Minnesota, Iowa, Rhode Island, and North Dakota. The commission realized, however, that it was open to objec-

tion upon constitutional grounds, and therefore recommended that the legislature secure the opinion of the Supreme Court concerning its constitutionality. In case the opinion of the court should be adverse, the commission pointed out that the constitution of the Commonwealth ought to be amended.

In due course the legislature submitted the question to the Supreme Court, which pronounced the three-mill tax unconstitutional.¹ Thereupon, an amendment was proposed striking out of the constitution the requirement that taxes must be proportional, but this failed to secure the two-thirds vote required in the House of Representatives. The following year a similar amendment passed the legislature, but with a provision that it should be referred to a special commission for further investigation. This commission submitted to the next legislature an adverse report,² which in 1910 resulted in the defeat of the proposed amendment, so that the project of a three-mill tax had to be abandoned.

Opposition to the proposed constitutional amendment was based upon a number of grounds. In the first place, Mr. Hills, Mr. Henry Winn, and most of the local assessors opposed it because they still desired to have all property taxed at the same rate. Many of them would have favored the taxation of personal property at the average rate prevailing throughout the Commonwealth, but they were unwilling to make any further concessions. A second group of remonstrants would have favored the establishment of a uniform tax upon intangible property at some such rate as \$10 or \$12 per \$1000, but contended that a rate of \$3 was altogether too low and would tend to increase the burden upon

¹ 195 Mass. 607.

² Report of the Commission Appointed to Investigate the Laws Relating to Taxation (December, 1909).

other classes of property. A third ground for objection was the belief that a reduction of the tax upon bonds and upon stocks of foreign corporations would affect adversely the value of non-taxable securities. And, finally, a fourth reason for opposition was the fear that the removal of the requirement that taxes must be proportional would open the door to favoritism and to radical legislation.

Taxation conditions in Massachusetts were then so bad that it is probable that the opposition of the first two classes of remonstrants would not have availed to defeat the amendment. But the arguments advanced by the other objectors raised a number of new questions which seemed to many people to require further time for consideration, and divided the forces which otherwise might have favored a better method of taxing intangible property.

VI

In 1911, Governor Foss directed the attention of the legislature to the subject of taxation,¹ and recommended the establishment of a state income tax and the adoption of a better method of taxing wild and forest lands. Prior to 1910 it would probably have been useless to propose in Massachusetts such a measure as a state tax upon incomes, since here, as elsewhere, the people had long been accustomed to the taxation of property and were inclined to regard an income tax as inquisitorial. But the situation suddenly changed when congress submitted to the states the sixteenth amendment to the federal constitution. This brought up for consideration the whole question of income taxation, and required every one in active political life to

¹ See H. Doc. 1900 of 1911. Also Sen. Docs., 255 of 1912 and 39 of 1913.

define his attitude upon it. Those who advocated immediate ratification of the amendment could not urge that a state income tax would be inquisitorial; while those who opposed such ratification usually did so upon the ground that the income tax should be reserved for the states, and were not in a position to argue that Massachusetts ought not to employ it. Governor Foss's proposals, therefore, met with very general support; his amendment authorizing a special forest tax was immediately adopted, and nothing but differences of opinion concerning the proper form of an income tax amendment prevented acceptance of his other recommendation.

These differences, however, proved difficult to harmonize; the more so because they offered a convenient reason for opposition to any change in the method of taxing intangible property. They turned chiefly upon the questions, whether the amendment should authorize a progressive income tax, and whether it should provide that property taxed upon its income should be exempted by constitutional requirement from other taxation. In 1912 and 1913, as in 1911, controversy over these points was chiefly responsible for the defeat of proposed income tax amendments.

But while such controversy continued, conditions were becoming increasingly serious. Orleans had a \$3 tax rate, other favored towns were receiving large accessions of taxable personality every spring, and it was becoming evident to the people of the rest of the state that they could not hope to retain even their existing revenue from intangible property. Moreover, removals of large amounts of personality to neighboring states were becoming increasingly common, and were causing well-founded alarm. These conditions finally led the mayor and the assessors of Boston to favor the income tax project, and elsewhere tended to disintegrate the

opposition of local assessors. Moreover, the tax commissioner had become convinced of the necessity of reform, and the annual reports of his department were dealing vigorously with the subject in a manner which could not fail to impress both the legislature and the public. Finally, Wisconsin in 1912 introduced a state income tax which proved an immediate success and furnished an impressive object lesson to Massachusetts.

In 1911, at the suggestion of Governor Foss, the tax commissioner instituted an investigation of the data furnished by the inheritance tax returns, and found that in estates passing through the probate courts the personal property amounted to between three and four times as much as the realty. From September 1, 1907, to August 31, 1908, the returns of all estates, whether taxable or not, showed that the real property brought under review was valued at \$22,462,000 and the personalty at \$70,715,000. From September 1, 1908, to December 1, 1911, the returns showed real property amounting to \$97,734,000 and personal property valued at \$368,741,000. Upon the assumption that the total personalty of the inhabitants of Massachusetts was more than three times the total realty, and that at least one-half of the personalty was taxable under existing law, the tax commissioner estimated that there must be from \$4,000,000 to \$5,000,000 of taxable personal property within the Commonwealth, whereas the local assessors in that year had assessed but \$984,300,000.¹ Up to that time it had been possible to argue that, altho much intangible property evaded taxation, the assessors were able to secure the greater part of it. But thereafter it was usually accepted as a fact that the untaxed personalty, chiefly intangibles, was three and perhaps four times as great as the amount actually

¹ See Sen. Doc. 255 of 1912, pp. 2-3.

taxed. This tended to give a somewhat new turn to discussions of the tax problem.

In 1914, the need for a change in the method of taxing intangible property became so apparent that, without waiting for a constitutional amendment, the legislature established a registration tax upon certain classes of bonds.¹ It provided that holders of bonds secured by mortgage upon tangible property actually taxed in Massachusetts or elsewhere might register such bonds with the tax commissioner and pay a registration tax of three mills on the dollar. Bonds so registered were to become exempt from other taxation. As a property tax, of course, this measure would have been wholly invalid, but the legislature acted upon the theory that it might be upheld as a valid excise. Doubts about the constitutionality of the measure were sufficient to prevent most investors from taking advantage of the act, but substantial amounts of bonds were registered with the tax commissioner up to the repeal of the law by the Income Tax Act of 1916.

Agitation for a better method of taxing intangible property was becoming increasingly active and influential. In 1908, a committee of prominent citizens was organized to advocate the adoption of the three-mill tax, and the following year the Boston Chamber of Commerce took up the subject in vigorous fashion. In 1910, a state-wide organization known as the Merchants' and Manufacturers' Committee on the Tax Laws came into the field, so that the movement was no longer confined to Boston and its immediate vicinity. In 1914, the Massachusetts Tax Association was organized, with Lucius Tuttle as its first president and a board of directors representing many of the important business interests of the Commonwealth as well as

¹ Ch. 761 of 1914.

organized labor. Upon Mr. Tuttle's death, Ex-Governor Curtis Guild succeeded to the presidency, and an active campaign was instituted under most favorable auspices. With the coöperation of Governor Walsh and the tax commissioner's department, a constitutional amendment permitting the levy of a proportional income tax, but not requiring that property taxed upon its income *must* be exempted from other taxation, was drafted and submitted to the legislature which ratified it by decisive votes in both branches. This amendment passed the legislature of 1915 even more decisively, and in the following November was adopted at the polls by an overwhelming vote. The way was now open for a reform of the tax on personal property.

VII

The legislature of 1915, anticipating the ratification of the amendment, authorized the appointment of a special commission on taxation which was instructed to investigate the advisability of changes in existing tax laws and to draft an income tax act. In January, 1916, this commission¹ submitted the draft of a well-considered act which, under the impetus of the overwhelming ratification of the income tax amendment at the polls, was enacted after much discussion but with little effective opposition.

The income tax law of 1915 was designed primarily to provide a better method of taxing intangible property. It therefore exempts such property from local taxation, and imposes upon its income a tax of 6 per cent, from which, however, \$300 of taxable income is exempt for persons whose total income from all sources does not exceed \$600. But for the tax levied since 1646 upon

¹ Report of the Special Commission on Taxation (1916).

personal, trade, and professional incomes, the law of 1916 might have been confined to the income from intangible property. Since, however, that tax was in existence and was not likely to be repealed, it was necessary for the new act to take cognizance of this fact. It would have been clearly undesirable to have two income taxes: one levied by the state and strictly enforced; the other levied by local assessors and almost a dead letter. The obvious and expedient solution was the transfer of the old local tax to the Commonwealth, and therefore the law of 1916 includes a tax upon income from personal, trade, and professional earnings. Finally, the act imposes a tax of 3 per cent upon profits derived from dealings in intangible personal property.

The new law, therefore, is much narrower in scope than the Federal income tax, which applies to income from all sources, and somewhat narrower than the Wisconsin income tax, which reaches practically all incomes except dividends from certain classes of corporations. It follows, however, what was undoubtedly the line of least resistance for Massachusetts. There was no popular demand for a new method of taxing real estate and tangible personal property, and the problem before the legislature was that of finding a better method of taxing intangible personality. The result is a perfectly logical adjustment by which personal, professional, and trade incomes, and income from intangible property are taxed by the state; while tangible property continues to be subject to local taxation upon its capital value.

Following antecedent practice, the Massachusetts income tax is imposed upon "inhabitants" of the Commonwealth. It is, therefore, a personal tax payable by people who are inhabitants of the Commonwealth at any time between the first day of January and the thirtieth day of June in any year. Persons who are

not inhabitants within the meaning of that word as defined by the Supreme Court are not subject to the tax, even tho they may carry on business in Massachusetts; and, upon the other hand, inhabitants of Massachusetts are taxable upon income derived from business carried on outside of the Commonwealth. The working of this feature of the law will be watched with interest.

The tax upon the income from intangible property substitutes a reasonable and uniform tax for one levied at rates that ranged from \$3 to \$30 per \$1000. Under the old system many people evaded taxation, some compounded with the local assessors for a reasonable tax, and still others paid one-fourth or one-third of their incomes. The intention is that the new tax shall be enforced upon every one, and the act accordingly provides adequate methods of administration.

The first thing, of course, is the requirement of sworn returns of income from taxable intangible property, which must be made on or before the first day of March in each year and relate to the income of the preceding calendar year. Failure to file such a return renders a taxable person liable to an additional tax of \$5 for every day he is in default. Continued failure after receipt of a notice from the tax commissioner makes a person liable to be assessed by the commissioner for twice the amount of his taxable income, and subjects him to a further penalty of fine, imprisonment, or both. Conviction for refusal to make a return works the forfeiture of a person's right to hold public office within the Commonwealth for such a period, not exceeding five years, as the court may determine. Similar penalties are provided for making fraudulent returns, the law making no distinction between persistent refusal to file a return and the filing of a return found to be fraudulent. Since

the enforcement of the act is to be wholly in the hands of the state tax department, these penalties should prove adequate.¹ No careful lawyer or responsible banker will advise a client or customer to trifle with the new law; and there is every indication that the income tax, with its requirement of sworn returns, has been accepted by the business community, and will be strictly complied with. It will not be people of wealth, but those of smaller means and little or no business experience, who will cause most difficulty.

The tax upon the income of intangible personality applies only to such property as was formerly subject to taxation; thus incomes from mortgages upon taxable Massachusetts real estate, deposits in savings banks, tax-exempt state and municipal bonds, national bank stock, and the stock of Massachusetts corporations, are all exempted. The same is true of income from so-called "stocks" of most of the voluntary associations which are so common in Massachusetts. In general, owners of securities will find that they are taxable only upon income derived from sources that were taxable under the old law. About the only exception is found in the case of trusts or other voluntary associations not owning real estate exclusively, or shares in Massachusetts corporations, and not doing business principally in Massachusetts.

A very important and interesting feature of the tax on the income from intangibles is that it provides for a deduction on account of indebtedness. The property tax had authorized such deduction only against certain credits, that is, it allowed the taxpayer to deduct money he owed from debts due him. The new law does not

¹ The act, of course, makes suitable provision for preventing disclosure of the details of tax returns. It provides, however, that the names of the persons who have filed returns shall be open to public inspection. It permits taxpayers to file their returns either with the tax commissioner or with the income tax assessor of the district in which they live.

indeed permit the deduction of interest paid upon any and all debts from the income received by the taxpayer from taxable intangible property. To do so would have been wrong in principle and would have opened the door to wholesale evasion. Deduction of all debts from taxable income is necessary as well as proper under a general income tax applicable to income from all sources, but under a partial income tax it is manifestly impossible. The new law, therefore, follows what may be called the principle of granting the taxpayer a proportional offset or deduction. It provides in effect that, from the income received from taxable intangible property, the taxpayer may deduct such a proportion of the interest paid on his total indebtedness as the income which he derives from taxable intangible property bears to his total income.

The provisions of the law at this point are necessarily complicated, but their practical operation may be shown by the three following cases: a person receiving \$99,000 of income from taxable intangible property and \$1000 of income from other sources may deduct from his taxable income derived from intangible property 99 per cent of the interest paid upon his indebtedness; a person receiving \$50,000 of income from taxable intangibles, and \$50,000 from other sources will be able to deduct one-half of the interest which he pays upon his debts; and, finally, a person receiving \$1000 from taxable intangible property and \$99,000 from other sources will be permitted to deduct but one per cent of the interest upon his obligations. These cases do not take account of all the provisions of the law and are intended merely to illustrate the principle which is eminently fair and in practice should offer no serious difficulties.

Another departure from former practice is the provision which grants an exemption of \$300 of income from

intangible property to persons whose total income from all sources does not exceed \$600 during the year in respect of which the tax is assessed. Under the old law a person owning taxable securities received no exemption, and in many cases where small estates were uncovered in the probate courts great hardship arose. There was, indeed, a provision that the assessors might exempt the polls and any portion of the estates of persons who by reason of age, infirmity, or poverty were deemed to be unable to contribute toward the public charges. But this did not meet the needs of the case, since a person with a capital of five or ten thousand dollars was not in a position to plead "poverty." Thus it came about that persons deriving small incomes from taxable property were frequently taxed for twenty or twenty-five per cent of such incomes. The new law not only reduces the rate of taxation to 6 per cent of the income from intangibles, but provides an exemption of \$300.

The tax imposed upon income derived from annuities and from "professions, employments, trade, or business" will be levied at the uniform rate of $1\frac{1}{2}$ per cent. This is a trifle less than the average of the local tax rates to which such incomes were subject under the old law. It is expected, however, that the assessments made by state authorities will be so much more complete that the revenue will be considerably greater than formerly. The new law continues the exemption of \$2000 of professional, personal, or trade incomes, and provides the further exemption of \$500 for a married person and \$250 for each child under the age of eighteen years, or for a parent dependent upon the taxpayer for support; but provides that the total exemption shall in no case exceed \$3000. Income from annuities received no exemptions under the old law, but under the new has an exemption

of \$300 if the total income of the annuitant from all sources does not exceed \$600.

In its provisions concerning professions, employments, trade, or business, the new law is noteworthy because it carefully defines taxable income. The old law merely provided that the "income" from such sources should be taxed, and that income derived from property subject to taxation should not be taxed. The Supreme Court held, however, that this permitted the taxation of the entire income of a merchant even tho his merchandise might be subject to local taxation,¹ so that in fact double taxation of merchandise and the income derived therefrom was possible. The new law imposes the tax upon the net income of a business, determined substantially as any good accountant would compute it; and then provides that a taxpayer may deduct from such net income a sum equal to 5 per cent of the assessed value of the tangible property, real and personal, owned by him and used in the business.

The tax of 3 per cent imposed upon profits derived from dealings in intangible personal property is levied upon all inhabitants of the Commonwealth whether or not they are engaged in the business of dealing in such property. It also applies to dealings in all classes of securities, taxable and non-taxable. The tax is to be levied upon the "excess of the gains over the losses," and is to be assessed annually. But the law provides that trustees or other fiduciaries shall be assessed at the time a trust is terminated unless it continues for more than five years, in which case the assessment shall be made at least in every fifth year.

This provision of the act occasioned considerable discussion. Without it gains from dealings in intan-

¹ *Wilcox v. Middlesex County Commissioners*, 103 Mass. 544.

gible property would have been taxable at the rate of 1½ per cent if they formed part of the income of any business carried on by inhabitants of the Commonwealth; but they would not have been taxable to individuals who speculated in securities. Now an income tax differs from a property tax in that it exempts from taxation property yielding no income, which, if it has any value, would be taxable under a property tax. It is obviously the intention of the new law that persons who speculate in non-dividend-yielding stocks shall be taxed upon their speculative gains, even tho they may not be engaged in the business of buying or selling intangible property. That the rate was placed at 3 per cent instead of 1½ per cent was perhaps due in part to the desire to tax the "speculator"; but it is also explicable on the ground that intangible property is now exempt from taxation as property, so that persons who deal in it may fairly be required to pay a somewhat heavier rate than persons who deal in merchandise or other taxable tangible property.

As already stated, the administration of the income tax is placed in the hands of the state tax commissioner. It was not to be expected that the tax would work well if administrated in approximately three hundred and fifty different ways by approximately three hundred and fifty local boards of assessors; and Massachusetts acted wisely in turning the work over to the Commonwealth. During the fifty years of its existence, the tax commissioner's department has been administered in a manner that has commanded general confidence, and all that needed to be done was to add to its equipment a new bureau charged with the assessment and collection of the income tax.

The tax commissioner accordingly is authorized to appoint an income tax deputy who will have general

charge of the taxation of incomes. He is also to divide the state into districts, and to appoint an income tax assessor for each district. Thus the administration will be in some measure localized, but the number of districts will probably not exceed ten or twelve, and responsibility will rest with a single ultimate authority, the state tax commissioner. Under this arrangement there will undoubtedly be intelligent and even-handed enforcement of the law in every city and town, so that taxpayers will have the assurance that all citizens are being treated alike. The tax commissioner is authorized to make necessary rules and regulations for the assessment and collection of the income tax, and will undoubtedly be given a generous allowance for necessary expenses. Upon the administrative side, therefore, the law of 1916 seems to make adequate provision for strict enforcement of the tax upon incomes.

Information at the source is also required in certain cases. Every employer of labor must report to the tax commissioner the names and addresses of all regular employees who are inhabitants of Massachusetts, and have received wages, salaries, or other compensation in excess of \$1800 during the previous calendar year. Also corporations doing business in the Commonwealth and voluntary associations having transferable shares are, unless their stocks fall within the class of tax-exempt securities, required to report the names of their shareholders. They are further required to report the names of all inhabitants of Massachusetts to whom they have paid annuities or interest upon their bonds, notes, or other evidences of indebtedness, except interest on coupon bonds and incomes exempt from taxation under the act. Neither of these requirements is unduly burdensome, so that no such difficulties will arise as have developed under the federal income tax.

A final provision of interest is that concerning the taxation of personal property in the year 1917 when the new law goes into effect. Since intangible property is hereafter to be exempt from local taxation, many taxpayers will be entitled to reductions of the local assessments upon their personality; but since tangible personal property today is frequently under-assessed, it is important that such persons should not receive greater reductions than they are entitled to. The law, therefore, provides that in 1917 no local assessment of personal estate shall be reduced below the amount assessed in 1916, unless the taxpayer makes a return of his tangible personal property. This means that, in order to benefit by the exemption of intangible property or income formerly subject to local taxation, taxpayers must file with their local assessors in 1917 a return of their taxable personality. For the average citizen this will mean household furniture in excess of \$1000, automobiles, carriages, horses, and live stock; and for merchants and manufacturers it will mean a return of merchandise and machinery. In this manner there will be secured a much fuller assessment of tangible personality than ever before; so that the new law, by providing a just and practicable method of taxing intangibles, will remove many of the difficulties that have hitherto attended taxation of tangible personality. In this respect it is probable that the experience of Massachusetts will be the same as that of the few other states that have adopted fair and efficient methods of taxing intangible property.

The new law is calculated to yield a revenue somewhat greater than is now derived from intangible property and taxable incomes, and there can be little doubt that it will fulfil expectations. It should be remembered, however, that Massachusetts has been taxing

some \$500,000,000 or \$550,000,000 of intangible personality, so that the results of the new act cannot be as spectacular as those secured in other states where intangible property had formerly contributed little or nothing.

The intangible property taxed in 1914 probably paid somewhat less than the average rate of taxation because of its concentration in wealthy towns. If we estimate that it paid \$16 per \$1000, it yielded a revenue of \$8,000,000 to \$8,800,000. The amount of incomes now taxed is not known, but it probably does not exceed \$20,000,000, and the taxes collected from this source cannot exceed \$350,000 or \$400,000. The new income tax, therefore, must yield from eight to nine millions of dollars in order to offset the loss of revenue occasioned by the exemption of intangible property and income from local taxation. It ought to do so, since all the estimates show that there are in the state enough taxable intangibles, and professional, personal or trade incomes, to give the desired result. This calculation assumes that the exemption of intangibles and income from local taxation will decrease local assessments of personal property by some \$550,000,000. But this will not be the case, because of the provision that such assessments shall not be less in 1917 than in 1916 unless taxpayers bring in returns of their taxable property. The law, therefore, is certain to produce a larger revenue from tangible personal property, an important factor of safety in calculations of the probable result of the new income tax.

Greatly in favor of the new act is the fact that it was adopted only after some years of serious discussion which familiarized the people of the Commonwealth with the evils of the existing system and the need of having reasonable and enforceable tax laws. It repre-

sents a fairly general consensus of opinion reached after thoro consideration, and therefore promises to solve the most vexatious of taxation problems. This has been the experience of other states that have introduced reasonable methods of taxing intangible property, and there is little ground for doubt about the result in Massachusetts.

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WHY ORGANIZED LABOR OPPOSES SCIENTIFIC MANAGEMENT¹

SUMMARY

Scientific management defined, 62.—Time and motion study its distinctive device, 63.—Opposition of labor leaders, 64.—Causes to which the opposition is ascribed, 65.—Examination of the alleged causes, 66.—The fundamental cause, 70.—Craft unions of the dominant type are essentially business organizations, 72.—Their attitude toward output and efficiency, 73.—Scientific management looks to constant change; unionism to fixity and uniformity, 77.—Consequent difference of attitude toward time and motion study, 81.—Fundamental principles incompatible, 82.

SCIENTIFIC management so-called is one phase of the efficiency philosophy and movement which of late have gripped the imagination of the business world and which may be said to constitute the latest phase of capitalistic industrial development. The term "scientific management" is of quite recent origin. In its genesis it had reference specifically to the "Taylor System," first developed and applied by the late Frederick W. Taylor, the well-known author of "Shop Management," and joint inventor of the Taylor-White process for the manufacture of high-speed tool steel. By custom it has been extended gradually to include several modifications and imitations of the Taylor system, and some systems for which independence of

¹ The paper here printed was undertaken by the late Professor Hoxie at the request of the editors of this Journal, and had been virtually completed by him; none but slight verbal alterations have been made in his manuscript. The fulness of information which it shows, its insight, large sympathy, and high judicial quality add to the sense of loss which was felt at his untimely death (June 22, 1916) by all economists and especially by students of his chosen field.

development is claimed. Thus at the present time in common usage it is generally applied indiscriminately to the systems of Mr. Taylor, Mr. H. L. Gantt, and Mr. Harrington Emerson, and frequently to the principles and methods of several other so-called "efficiency experts."

The various systems thus commonly included under the general term differ specifically in many respects, but they all have in common certain purposes and methods which constitute the basis of organized labor's opposition.

Theoretically, scientific management is an attempt through accurate industrial analysis to discover and put into operation the objective facts and laws which underlie true efficiency in production. In its broadest and best application it attempts through this process of analysis to determine the best location and structure of the shop for the particular manufacture designed; the most efficient processes and methods of production in general and in detail; the material, organic and human arrangements and relationships best suited to further the productive process; the most effective character, arrangements and uses of the machinery, tools and materials employed; the methods of selection and training of the workmen and managerial force most conducive to efficiency; the character and amount of work which can and ought to be performed by each member of the labor and managerial force; the payment to be accorded each individual in the interests of efficiency and justice; and in general it aims to discover all the material, organic and human qualities, arrangements and relationships which will result in greatest output and lowest cost.

The principal and distinctive device by which scientific management attempts thus to discover and put

into operation the objective facts and laws of industrial efficiency, is time and motion study.

It is the use of time and motion study, not only for task setting but for the improvement and standardization of all the mechanical and organic features and arrangements of the productive concern, that chiefly distinguishes scientific management from all previous systems of production. Through the use of time and motion study and the modes of payment which it has devised, it has been claimed that scientific management not only increases efficiency and lowers costs, but does larger and more difficult things. We are told that it substitutes in the shop the government of fact and law for the rule of force and opinion, *i. e.*, substitutes the democracy of science for the autocratic rule of employers or workmen, and removes the rough, arbitrary and often unjust discipline of foremen and superintendents; assigns to each worker the task for which he is best fitted; trains the workers in the best and easiest methods of work; protects them from over-exertion and exhaustion; safeguards them against arbitrary discharge, and lengthens their term of service; raises wages; eliminates arbitrary rate-cutting, and affords increased opportunities for advancement and promotion; and finally, renders unnecessary trade unionism and collective bargaining as means of protection to the workmen.

Such in briefest outline is the essential character of scientific management and such are the essential claims made for it. Why then does organized labor stand in definite and uncompromising opposition to it?

There are more than a hundred specific reasons alleged by the representatives of organized labor to account for their determined opposition to scientific management, and, doubtless, there are many other

points of opposition which are not openly proclaimed. In my study last year,¹ I attempted to gather up these scattered allegations and reduce them to some sort of system. Thus classified and generalized to the *n*th degree, they comprehend the following main points.

Scientific management, say the union representatives, is a device employed for the purpose of increasing production and profits, which concerns itself almost wholly with the problem of production, disregarding in general the vital problem of distribution. As such it is a reversion to industrial autocracy which forces the workers to depend upon the employers' conception of fairness and limits the democratic safeguards of the workers. It is unscientific and unfair in the setting of the task and in the fixing of wage rates; in spirit and essence it is a cunningly devised speeding-up and sweating system; it intensifies the modern tendency toward specialization of the work and the task; it condemns the worker to a monotonous routine and tends to deprive him of thought, initiative and joy in his work and to destroy his individuality and inventive genius; it lessens the continuity and certainty of employment, and leads to over-production and unemployment; it is incompatible with, and destructive of, collective bargaining and trade unionism.

Belief in these charges, in whole or in part, which I found on further investigation was general among organized laborers, is sufficient to account superficially and immediately for the determined opposition of unions and union men to the introduction and operation of scientific management. Yet the statement of these objections does not furnish any very real or significant answer to the question why organized labor opposes

¹ The reference is to the volume on *Scientific Management and Labor*, published by Professor Hoxie in 1915.

scientific management. It gives answer in terms of belief only. It gives no clue to the causes of this belief, and, therefore, none to the real nature of the opposition — to the forces which have created the opposition, and hence its strength and significance. In short, this statement of belief does not go to the root of the matter and enlighten us in regard to the fundamental question. In order to do this, we must dig below the surface and find the basic or ultimate reasons for these expressed beliefs.

During my work of investigation last year several suggestions were brought forward both by opponents and advocates of scientific management to account in general and causal terms for the attitude and belief of organized labor which I have tried to summarize above. It was suggested that the opposition was ascribable to various causes. (1) To general ignorance on the part of the union workers of the true nature, methods, and results of scientific management. (2) To general and fundamental distrust, which the workers have acquired from bitter experience, of anything new or different in industrial organization and methods. (3) To a propaganda of opposition among the rank and file of union men conducted by the leaders, who fear that if a better understanding is allowed to grow up between the real workers and the employers, their prestige and emoluments will be decreased, and even perhaps their positions abolished and they be reduced again to the ranks. (4) To the crudities of scientific management, still in its beginnings, and to the many abuses of it in practice by charlatans and by ignorant and unscrupulous employers, who trade upon the name without understanding the intricate and delicate nature of the thing, the time and patience necessary for its development, or who deliberately violate its spirit and methods for labor driving purposes. (5) To present dominant ideals of trade

unionism which are incompatible with those of scientific management as conceived by Mr. Taylor; a suggestion made by Mr. Taylor himself, who said: "Scientific management rests upon the fundamental assumption that a harmony of interests exists between employers and workmen. It is therefore organized for peace, while trade unionism is organized for war. . . . Scientific management rests upon the assumption that the welfare of all demands ever increased efficiency and output; trade unionism is committed to the limitation of output."

Doubtless each of these suggestions has some validity, but none of them nor all of them together seem sufficient to account for the general and determined opposition of the unions. Moreover, some of them, while perhaps not positive misstatements, are yet misleading in their implications. Let us then consider each of them briefly on its merits and through this try to arrive at the essential meaning of the union attitude toward scientific management.

(1) It is true that there has been and is now a great lack of adequate knowledge of the true nature, methods and results of scientific management as a whole on the part of the great mass of organized workers, both the leaders and the rank and file. But it is equally true that increase of knowledge, which is going forward steadily, does not result in any abatement of union opposition. Here and there, individual members of unions or small groups of union workers who are brought into actual contact with efficiency methods in the shop, do become reconciled to scientific management and are sometimes even enthusiastic advocates of it. But the significant thing to note here is that these same men generally cease to be "good unionists" in spirit, even if they do not drop their union affiliation altogether and become its

opponents. The increased knowledge which leading unionists have recently gained of scientific management, in theory and in practice, has intensified rather than lessened their opposition and that of the union movement in general.

(2) There is no doubt that general and almost instinctive distrust of the new, strange and different has played a part in rousing union opposition and to a certain extent is effective in continuing it. It has been ground into the consciousness of laborers by long and bitter experience that industrial change through invention and the application of new machinery and processes, however beneficial it is to society as a whole and even to labor in the long run, usually results in taking toll immediately from the individual worker or the working group concerned. It leads to displacement or lessened security of employment, often in lower wage rates and long hours, through the increased competition of lower grades of workmen and the lower cost and prices of the products affected. The history of industrial development is full of incidents of this kind, and no better example can be found than the case of the English weavers and spinners which Mr. Taylor was so fond of citing. For more than a generation after the application of the great inventions which revolutionized the cotton manufacturing industry in England, the competition of women and children operated to displace the men, to lower wages, and to lengthen hours, to such an extent that this industry as it then existed has become the classical example of modern labor oppression and degradation. The world, and even labor, ultimately gained; but meanwhile the workman concerned, the head of the family, sat at home, swept the house, cooked and darned, while his wife and children, down even to the age of five years, worked in the factory from four and five o'clock in the

morning till seven and eight o'clock at night, under the most unsanitary and unsafe conditions, often treated with unheard of brutality, and for an aggregate wage that scarcely sufficed for the food, clothing and shelter necessary to keep body and soul together. And what was true of the English cotton industry has tended to be true in a lesser degree of industrial changes generally. The workmen immediately concerned have tended to be penalized that society might reap the advantages of industrial progress. What wonder then that they have come instinctively to dread change of any kind that immediately affects their work and to oppose such change unless it is accompanied by positive guarantees that they shall immediately share in the social gains, or, at least, suffer no loss of employment and no derogation of their standards of work and wages as the result of the improvements ? And surely we can hardly expect the workman with a dependent family and no savings ahead to welcome innovations that threaten to render less valuable his acquired skill, to throw him even temporarily out of employment, or to transfer him to employment which commands a lower wage rate, simply because these changes will redound ultimately to the benefit of society, to labor as a whole, or even in the long run to his own advantage, when a month of unemployment, two weeks even, may bring him and his to the verge of want, while a few months or years of employment at a lower wage level may mean the wrecking of all his hopes for a home, for the education of his children, for provision against sickness and old age, or may mean even the break-up and scattering of his family.

(3) That trade union officers and leaders have of late carried on a persistent and ever increasing propaganda against scientific management cannot be gainsaid.

Stray sentences from Mr. Taylor's works which could be interpreted as inimical to the workers and their welfare, and particular instances of abuses and perversions of scientific management, have been dramatically presented to the rank and file of unionism as indicative of the general character and results of the system, much in the same spirit as texts from the Bible were formerly used by the clergy to warn the unconverted of the dangers of hell fire. The motives which underlie this propagandistic work I need not attempt to interpret. Whatever the motive, the effect has undoubtedly been to rouse the latent distrust and quicken the opposition of the rank and file of organized laborers. But here again we find no force potent enough to account for the general opposition of the union laity; for it is a well established fact that the rank and file of unionism are quick to distrust their leaders when these leaders take a position which seems to run counter to their own preconceptions and beliefs drawn from immediate experience or tradition. Let the union leader endeavor to enforce on the rank and file something which is fundamentally opposed to their standards and beliefs, and he soon finds that his leadership is of the quality represented by that of the man at the head of the charging crowd. If he is to lead he must run fast to keep them off his heels, and he must run where the mind of the crowd wills.

(4) The crudities of scientific management in practice, and its many abuses by charlatans or by ignorant and unscrupulous employers — conditions and abuses the prevalence of which the scientific management group would be the last to deny or to attempt to minimize — furnish the union propagandists with an inexhaustible arsenal of facts and inferences with which to illustrate their texts and reinforce the multitude of charges which

they hurl against the new movement. But the very employment of these abuses to create opposition against scientific management *per se*, and the persistent refusal to attempt or even to admit any distinction between scientific management as exemplified in the better class of shops where its ideals and principles are being patiently worked out and its mushroom counterfeits where these ideals and methods are consciously perverted, point to grounds of opposition aside from and beyond its abuses, and grounds which evidently have not yet been disclosed.

(5) Finally, then, we come to Mr. Taylor's own explanation of union opposition in the incompatibility of the ideals of scientific management and unionism, in that the one is organized for peace and harmonious action between employers and workmen, the other for war; that the one demands an ever increased efficiency, while the other is committed to limitation of output.

Do we come here to the real and ultimate answer to the question, why does organized labor oppose scientific management? In a certain sense I believe that we do. I believe that the persistent and growing opposition of unionism to scientific management does rest finally upon a fundamental opposition of the ideals essentially characteristic of the two things. But I cannot subscribe to Mr. Taylor's analysis of this proposition — his explicit statement of the opposed ideals of scientific management and organized labor — because I believe that he has here misinterpreted the really fundamental ideals of trade unionism. He has mistaken action for motive, — the objective facts of union policy imposed by circumstances for the underlying purposes of unionism which have been forced to find expression in facts which belie their real nature. In so doing, I believe that he committed a similar error to that of the unionists in

judging the ideals of scientific management by its crudities and abuses.

In this connection it is misleading to speak of unionism as a whole. In fact there is no such thing as unionism in the sense of a consistent organic or functional unity. On the contrary, "there are in the United States today hundreds of union organizations each practically independent or sovereign, and each with its own and often peculiar structural arrangements, aims, policies, demands, methods, attitudes and internal regulations. Nor is there any visible or tangible bond that unites all these organizations into a single whole, however tenuous. Groups there are, indeed, with over-structures and declared common aims and methods. But group combats group with the bitterness that can arise only out of the widest diversity of ideals and methods." In short, trade unionism is everywhere very much of an opportunistic phenomenon. Unionists have been prone to act first and to formulate theories afterward; and they have habitually acted to meet the problems thrust upon them by immediate circumstances. Modes of action which have failed when measured by this standard have been rejected and other means sought. Methods that have worked have been preserved and extended, but always the standards of judgment have been most largely determined by the needs and experiences of the particular group concerned.

Under these circumstances, the generalization that we can most legitimately use is to speak of a dominant type of unionism, and we may perhaps say that this dominant type is represented functionally by the ideals and methods advocated by the leaders of the American Federation of Labor.

It is with respect to this dominant type of unionism that I believe Mr. Taylor has mistaken the objective

facts of policy imposed by circumstances for underlying purposes. In the case of this dominant union type the reality seems to be this: it is not organized for war, tho it *does* engage in warfare; it recognizes the crying need for increased efficiency and productiveness, tho it *does*, as a matter of fact, under certain circumstances and for reasons which we shall see later, limit the output. In both cases it has been forced to modify its general ideals in practice by the conditions and circumstances which it has found itself obliged to face.

The truth is that the outlook and ideals of this dominant type of unionism are those very largely of a business organization. Its successful leaders are essentially business men and its unions are organized primarily to do business with employers — to bargain for the sale of the product which it controls. It has found, however, by long and general experience that if it is to do business with the average employer or with associations of employers it must be prepared to fight. But throughout its history this fighting has been predominantly conducted with the purpose of forcing employers to recognize it as a business or bargaining entity. Its position and experience have been very much like that of a new and rising business concern attempting to force its way into a field already occupied by old established organizations in control of the market. Like the new business concern, it has had to fight to obtain a foothold. But from this to argue that it is organized for war is a complete *non sequitur*.

A somewhat similar situation has existed in regard to the matter of output. Business unionism has recognized, in general, the evils of restriction and has been willing to allow and even to encourage the introduction of new machinery and improved processes and methods, and to sanction increased effort and productiveness on the

part of its members up to reasonable physiological limits, provided it could be guaranteed that the improved methods and the increased exertion and output should not be made the means of lessening the share of the workers in the product or forcing upon them lower wage rates and inferior conditions of employment. But here again it has found the average employer or employers' association standing in the way. It has been taught by long and bitter experience that employers could and would make use of improvements and increased output by the workers not only to seize all of the gains but even to reduce the actual rates and returns to the workers.

The fact is that despite all theorizing to the contrary, the wages of workmen under the unscientific conditions that have prevailed in industry are not determined automatically by specific output or by supply and demand, but immediately by a process of bargaining. The two most important factors in determining the outcome of this bargaining process have been the customary normal or standard day's work and the customary standard of living of the workers concerned. These have been the practical standards of right, justice and expediency most generally considered. In bargaining between employer and workmen, as it has generally taken place in the past, if the employer could make it appear that, under the existing conditions, the workers were not producing up to the standard day's work, he had a strong case to show that wages ought to be lowered or that more work ought to be done for the same pay, which amounts virtually to lowering the wage. If, further, the employer could make it appear that, at the given wage rate, or on the basis of the standard day's work, the workers could secure a standard of living higher than that customary with them, he

had a strong case to show that the wage rate ought to be lowered, or, at least, that it should not be increased. In a contest of this kind the employer has been fairly sure of the support of public opinion, arbitrators, the police and the courts.

Now the workers have been taught by long experience that the average employer is constantly seeking to take advantage of these facts to secure an increase of the output *and at the same time to lessen the share and the amount of the product going to the workers.* Thus, when new machinery and methods are introduced, he points to the fact that, at the old wage rates and under the old conditions of work, the laborers are able to secure earnings more than sufficient to maintain their customary standard of living, and makes this a basis for lowering of rates or at least of a refusal to increase wages and improve conditions of work. Where competition is keen, he has usually been able to carry this off by adding to the arguments stated above that profits have not risen or that they have positively declined as the result of the improved methods. Where competition has been absent, *i. e.*, where a combination has controlled the goods market, the employer has usually been strong enough to carry his point regardless of facts and arguments. Thus new machinery and methods have generally not improved the wages and conditions of the workers *immediately concerned* and, as a matter of fact, have not infrequently lowered them, especially where these improvements have created conditions of increased competition among the workers, as they very generally have done.

Turning now to the other aspect of the matter — increased effort and productiveness on the part of workmen where no improvement in methods has taken place — the experience of the workers has been that the old

line employer has been constantly endeavoring to speed them up and over-reach them by the creation of "swifts" and "bell-horses," through the introduction of "company men," by threatening and coercing individuals whose native resisting power was weak or whose circumstances were precarious, and by offering secret premiums or bonuses. When through these methods some man or group of men has been induced to speed up, their accomplishment has been taken as the standard for all to attain. Thus, in the case of day work, the accomplishment of the strongest and swiftest was the goal set up for all, if wages were not to be lowered, while in the case of piece work the rate of wages tended to be lowered by these exceptionally rapid workers, because at the given rate it could be shown that they could make more than was necessary to maintain their customary standard of living. Under these circumstances the workers found that increased efficiency and output by members of their immediate group tended to mean not a corresponding increase of pay, but less wages for all, or more work for the same pay; and the only way they could see to prevent overspeeding and the lowering of rates was to set a limit on what any individual was allowed to do, in short to limit individual and group output until the employer could be forced to guarantee increased wages for increased effort and output.

These are facts which, I believe, cannot be controverted. No one recognized this more clearly than Mr. Taylor himself, whose denunciation of the blindness and unfairness of the average employer on account of them has not been exceeded in strength and bitterness by the labor leaders, and who declared publicly that were he a worker up against such conditions he would feel as they have felt and do as they have done in the matter of limitation of output.

In view of the facts of the case, then, as truly stated by Mr. Taylor, the circumstance that they do make war and that they do limit output gives so far no positive grounds for Mr. Taylor's generalization that unionism is organized for war, that unionism is committed to limitation of output, that the present dominant ideals of unionism are incompatible with those of scientific management, and that it is from this source that the opposition of unionism comes.

But if these conclusions hold, why, then, you will at once ask, does not unionism make an exception in the case of scientific management, which is itself supposed to be engaged in a struggle to eliminate those very coercive and oppressive tactics of the old line employers that have forced unionism to limit output and engage in industrial warfare? Why, in the case of scientific management, which is supposed to be committed to the strict maintenance of rates, to the elimination of speeders and to the increase of earnings with improved methods and increased output by the workers, does it not cease its warfare and raise its embargo on increased output? Doubtless the various causes of union opposition which we have discussed are a partial explanation. Ignorance of the true nature, methods and results of scientific management, distrust of the new and the different acquired by bitter experience, the propagandist influence of leaders, the crudities and abuses of scientific management in practice,— all undoubtedly tend to create and maintain union opposition.

But these things are not sufficient to account for it fully. The fact is, I believe, that behind and beneath all this there is an essential incompatibility between the basic ideals of scientific management and those of the dominant type of trade unionism. Not an incompatibil-

ity of the character Mr. Taylor believed to exist, but one still more fundamental. It is, I believe, this. *Scientific management can function successfully only on the basis of constant and indefinite change of industrial conditions* — the constant adoption of new and better processes and methods of production and the unrestrained ability to adopt the mechanical, organic and human factors at its disposal to meet the demands of these new productive processes and methods. On the other hand, *trade unionism of the dominant type can function successfully only through the maintenance of a fixed industrial situation and conditions*, extending over a definite period of time, or through the definite predetermined regulation and adjustment of industrial change — the establishment of definite rules and restraints governing the adoption of new processes and methods of production and the resulting mechanical, organic and human adaptations which the employer shall be allowed to make. Scientific management is essentially dynamic in its conception and methods. To impose static conditions, or to restrain it from taking full and immediate advantage of dynamic possibilities, robs it at once of its special purpose and effectiveness. Trade unionism of the dominant type is effective only where it can secure the strict maintenance of the industrial *status quo*, or can make its influence count effectively in all matters affecting its membership during the term of a contract. The conditions necessary to the effectiveness of the one are, therefore, incompatible with the effectiveness of the other.

To show the truth of these statements we have only to examine briefly the character and results of the central methods or means through which these contrasted entities, scientific management and the dominant type of unionism, function.

As I have stated previously, the central and essential instrument or method of scientific management, the fundamental means through which it secures knowledge of the industrial situation and which guides it in action toward the attainment of its ends, is time and motion study, applied not alone to the setting of tasks and the making of rates, but to the discovery and inauguration of improvements in the material, organic and human conditions and arrangements of the productive process. Thus used, time and motion study means constant and endless change in the methods of operation. No sooner is a new and better method found and established than an improvement upon it is discovered, involving perhaps new machinery, new tools and materials, and a new way of doing things. Change, change and still more change is the special purpose and mission of this essential instrument and central feature of scientific management. In short, time and motion study in its broader conception appears to be a method of analysis applied to almost every feature of the productive concern and process. And it is something which is not done once and for all, but is applied continuously throughout the life of the establishment. The scientific management based upon it is a perpetual attempt to put into operation the new and constantly developing arrangements continuously revealed by it to be more efficient. Not the least of these are the discovery and adoption of new and more effective operations and tasks, the reclassification of the working force to meet the needs of these new conditions, the shifting of the individual worker from class to class and task to task in order to discover the work for which he is best adapted, the handling of the individual laborer's work and pay with reference to his particular quality and temperament so as to bring into play his best productive possibilities. To

deprive scientific management of the immediate use of the results of time and motion study, especially to restrain it from taking advantage of the better classification of workers and the better adaptation of the particular worker to the particular task which time study reveals, would be to deprive it of its chief characteristic — its constant striving toward the end of maximum possible efficiency, the thing that essentially marks it off from ordinary systems of management and gives it productive superiority to them. In short, such deprivation would prevent it from functioning normally.

Turning now to unionism of the dominant type, we find that the great body of its essential policies, demands and methods center about and are in the interest of one great principle — *the principle of uniformity*, as regards all the conditions of work and pay affecting the group of workers which it represents. The principle of uniformity, fully developed and applied, requires that all men doing the same work should be supplied with the same tools and conveniences, work normally the same length of time and at the same maximum speed, turn out the same maximum quantity and quality of goods, and receive the same rate of wages. It is in the interest of this principle of uniformity that the unionists demand the establishment of a standard rate of wages as a fixed minimum, a normal day or week as a maximum, a standard rate of work or a standard day's or week's work, which in connection with a standard rate of wages tends to make this standard rate a practical maximum. It is largely to penalize the violation of these standards, so that there may be no inducement to break down the principle of uniformity, that unions demand pay at an extra rate for overtime and for doing work in irregular ways or under irregular circumstances. It is to prevent

the violation of these standards of work and pay, and so to protect the principle of uniformity, that they demand control over the working personnel through the closed shop, control over the output of the individual, the abandonment of bonuses and premium payments, and finally, collective bargaining — a contract made with the whole group of workers, extending over a definite period and covering all the conditions of work and pay for all the men during the contract period.

The reasons for the insistence upon this principle of uniformity have been indicated earlier in this paper. It is not that the unions desire the limitation of output and are definitely committed to it, but that long experience with the average employer has ground into their souls the belief that employers as a class are constantly seeking to lower the wage rate, and at the same time to increase the speed and exertion of the workers of the group through driving or bribing individuals of the group to greater speed and longer hours; and then are setting up the work and pay of these men as evidence to prove that the others are soldiering on the job and must increase their exertions or suffer a reduction of wage rates or a lengthening of hours of work. The only effective way that the unions have found for preventing this underbidding on the part of individual workers and the consequences indicated, is to cut out all working competition between the members of the group, by insisting on the definite establishment of uniform standards to be observed by all and to cover all the conditions of work and pay — *i. e.*, by the establishment and maintenance of the general principle of uniformity, applied to all the members of each particular working group.

And it is evident, say the unionists, that the principle of uniformity thus conceived cannot be established and

maintained against the employer who wishes to violate it unless all the conditions and methods of work and pay are *fixed* for the term of a contract — that is, unless all change is either barred, or is predetermined and regulated through the establishment of definite rules and restraints governing the adoption of new processes and methods, and the resulting mechanical, organic and human adaptations and changes in payment which the employer shall be allowed to make during the contract period. Any change in machinery, processes, tools, materials, products, not predetermined or regulated, opens the way for new classifications of work and workers not covered by the contract and thus opens the way by which the employer may seek to overreach the men, to degrade workers, establish new and lower rates of pay and less advantageous conditions of work; in other words to reintroduce competition of workman with workman and consequent underbidding among them, and thus demolish entirely the structure of uniformity which the unions have reared.

Nor is this all. Looking at the matter in the long run and assuming, as the unions habitually do, that the employer is on the outlook to profit at the expense of the workers, not even the predetermination and regulation of changes by means of periodical contracts between the employers and unions can save the principle of uniformity from ultimate destruction where time and motion study is tolerated. For time and motion study means a constant tendency toward the break-up of old established crafts and the substitution of specialist workmen for the all-round craftsmen. Further, through it there is a constant discovery, gathering up and classification by the management of the knowledge of the best ways of performing work, on the basis of which definite instruction cards can be issued. With these and

the guidance of functional foremen, relatively unskilled workers can be taught in a short time to do efficiently a very great part of the work which only skilled craftsmen could be trusted with formerly. And still further, the possession of this definite information enables the employer to measure more accurately the work and capabilities of each man, and to determine more accurately what wage payments would induce each worker to do his best. Where time and motion study is allowed, then, even under regulation, the employer at the end of each contract period would be less and less dependent on the union and more and more inclined to substitute specialist workmen for craftsmen, and efficiency methods of payment for the uniform day wage. But it is a notorious fact that relatively unskilled specialist workmen do not make good unionists, and that efficiency methods of payment tend to center the attention and interest of each workman on his own affairs and thus to lessen the feeling of mutual interest and common dependence among the workers. Under these circumstances the union could not long maintain the conditions which it considers essential to industrial democracy in the shop and enforce the principle of uniformity against the will of the employer.

There appears to be no getting round the fact, therefore, that constant indefinite change of industrial conditions, such as is essential to the functioning of scientific management, is in clear contradiction to the principle of uniformity which is the central and fundamental principle of trade union policy and is absolutely essential, from the point of view of the dominant type of unionism, to its successful functioning. Instinctively, therefore, the dominant type of unionism fights against change and against time and motion study, the mother of change.

But, you will again say, granting the incompatibility of these fundamental principles, why does not unionism make an exception of scientific management and scientific management employers, who are not trying to overreach the workers but on the contrary are definitely committed to maintenance of rates and to a leveling up of earnings with every increase of efficiency? The answer of the unionists is that these may be the ideals of scientific management but they have not worked out in practice. Scientific management may maintain rates and level up the earnings of the workers at any given task; but what good does that do the skilled craftsmen, the bulk of the old line unionists, when, through the constant and unending change which scientific management is inaugurating, it destroys the very crafts to which the rates for which they stand apply, and forces them to join the crowd of specialized workmen whose earnings may be raised by scientific management but nevertheless will still be lower than the old craftsman's pay? In scientific management at its very best unionism of the dominant type sees its worst enemy, in that scientific management means the abolishment of the very craft conditions and the very psychology of industrial democracy upon which the unions have painfully erected their superstructure of uniformity, and upon whose continuation their identity and continued functioning depend.

Specialize the old line craftsman, destroy his craft, and however high your ideals and kindly your motives, you are destroying the foundations upon which the dominant type of unionism is reared. Every union leader feels this instinctively, every one who has come into contact with scientific management and who has an understanding of unionism knows that this is what it is doing. Here, I believe, we have the final answer to

the question: "why organized labor opposes scientific management." Scientific management, properly applied, normally functioning, should it become universal, would spell the doom of effective unionism as it exists today.

R. F. HOXIE.

TEACHING THE INTRODUCTORY COURSE IN ECONOMICS

SUMMARY

The American ideal in education: training for citizenship in a democracy, 88. — Importance of economics to this end, 90. — The borrowed German ideal, leading to research and lectures, has done harm, 91. — The teacher the central figure, 93. — Multitude of recent aids to teaching economics, 96. — Outlines, selections, materials, 97. — Questions and Problems, 100. — The serviceableness of these devices likely to be overestimated, 102. — Effectiveness in teaching, not research, should be the main aim of the college, 105.

THE recent appearance of numerous source books and students' manuals¹ for use in connection with the fundamental course in economics makes a fit occasion for discussing the question of its proper content and direction. It is well that this should be so. Because of the interest and discussion thus aroused significant gain may fairly be expected both in methods of teaching and in the emphasis placed on the teacher's function by univer-

¹ I have examined the following: Bullock, C. J., Selected Readings in Economics, Boston, 1907; Taylor, F. M., Some Readings in Economics, Ann Arbor, 1907; Fetter, F. A., Source Book in Economics, selected and edited for the use of college classes, New York, 1913; Marshall, L. C., Wright, C. W., and Field, J. A., Materials for the Study of Elementary Economics, Chicago, 1913; Hamilton, W. H., Current Economic Problems, a series of readings in the control of industrial development, Chicago, 1915; Sumner, W. G., Problems in Political Economy, New York, 1884; Davenport, H. J., Exercises in Value Theory based upon "Value and Distribution," Chicago, 1908; Taylor, F. M., Principles of Economics, Ann Arbor, 1918; Papers Presented at the Second Conference on the Teaching of Economics, Chicago, 1911; Marshall, Wright, and Field, Outlines of Economics Developed in a Series of Problems, Chicago, 1910; Fisher, Irving, Suggested Problems for Teachers for use with Elementary Principles of Economics, New York, 1912; Putnam, George E., Practice Problems in Economics for the use of Elementary Students, University of Kansas, 1915; Day, E. E., and Davis, J. S., Questions on the Principles of Economics, New York, 1915; Urdahl, Thomas K., Elementary Economics Manual, consisting of definitions, quis questions, problems and summaries of economic theories, Madison, 1915; Hayes, H. G., Problems and Exercises in Economics, revised edition, New York, 1916; Wildman, M. S., Syllabus (No title page).

sity authorities. What follows is concerned solely with undergraduate teaching. It is written from the viewpoint of the college rather than the university; and its underlying philosophy is that of the American ideal in education.

Our early colleges and universities were founded on English models. Around our older universities still lingers something of the English attitude that collegiate training is fit training for the leisurely life of the gentleman. It is a liberalizing training acquired without undue stress or strain and unbiased by consideration of its utilitarian bearing. Later we added to our ideals another drawn from German sources. It is based on quite another conception of the function of the university and the proper outcome of its curriculum and training. Not the gentleman, primarily, but the scholar is the product planned for. Not a leisurely life adorned by scholarship pursued for its own sake, but laborious days of scientific research, crowded with the severest mental exertion and resulting in monuments of productive scholarship. American students newly returned¹ from German Universities in the nineteenth century earnestly presented this ideal to their students and colleagues as the true guiding star in education.

Here is no quarrel with either ideal *per se*. Each has served its nation well; and it might be possible that in the future either, or both, would serve us well in American education. But that either is a correct guiding principle by which to plan and judge the training given

¹ Speaking of German university influence, of two hundred and twenty-five American students at German universities between 1815 and 1850, one hundred and thirty-seven went into college teaching. This gave an impetus to the elective system. "Lectures were substituted for recitations. Some of these were dry enough, but, being the German method, were received as the latest thing in education. Research became a word of great significance. There was to be a certain productivity of scholarship, which *more than teaching was the test of fitness to hold a collegiate chair*. Monographs and books were the outward and visible signs of this inward and scholarly accomplishment." Sharpless, *The American College*, pp. 40-41. The italics are mine.

to American undergraduates today one may fairly disbelieve; that neither is a correct criterion by which to measure the results achieved by any teacher charged with the important duty of introducing American sophomores in the flesh to the subject of economics should be clear after slight reflection.

The American ideal of education found clear expression in our early institutions; it finds freest expression today in our western state universities. One may grant that it needs clear and authoritative statement; that it is followed because American conditions rigidly enforce it perhaps as frequently as because it is clearly apprehended and consciously followed. But it rules, nevertheless. Other and borrowed ideals may disturb the surface but cannot deflect the deep flowing stream of American education. It rules because it is the fit accompaniment of our ideals of democracy; because it has grown with the growth of that democracy; and because it meets the immediate needs and desires of that democracy today. This ruling ideal demands that the American undergraduate be so trained that he is prepared to fulfil all the obligations and duties that fall to his share as a member of a democracy. This means that he is prepared for leadership, in the double sense of capacity to lead and willingness to undertake the responsibilities of that position — citizenship in the largest meaning of the term. A small minority may become scholars by profession, and for them the graduate school may furnish professional training. With the leisured life of the professional gentlemen our youthful democracy has little to do and — the temptation is strong to add — cares less. That ideal befits a mature nation that has conquered its wildernesses, both natural and social; has ordered its institutions; established its philosophy and set metes and bounds to its aspirations.

It does not accord with our lusty youthfulness as a nation. It is not with such aspirations that the youth of America throng our colleges, and for neither the English nor the German ideal of scholarship is support found in the basic conditions existing in American homes and social groups. Quite as surely as the homes and social group from which the English undergraduate is drawn give full support to the English ideal in education do the American home and society generally give support to the American ideal for the college, *i. e.*, training for citizenship in a democracy. Proof of such a spirit is written large in recent American university history. Let any charge of seeming truth be raised that conditions in a given college are subversive of true democracy; that there is undue support of rank and privilege; that there is failure to instill initiative and clear-sighted criticism; or that there is lack of faith in democratic institutions — and the public voice insistently and unerringly declares its disapproval and brooks no excuses or delay in correcting that situation. Other appeals may fall unheeded on the public ear but no one doubts in America that education is the foundation of democracy and that those who are privileged to train democracy's sons and daughters are by that token training first and foremost for citizenship and leadership. Success in this mission brings the American college and professor ready and generous applause; failure or indifference costs both college and professor their positions in public esteem.

Let it be granted, then, at the outset that the college is to be judged by this American ideal and that the teaching of our subject is to be accounted successful in the measure that it contributes to this result; that teachers are worthy and methods are desirable as they meet this test and that the American college graduate is

well trained only as and when he is ready to fulfil all his obligations as a citizen of a democracy. What is demanded of him? And what may the study of economics contribute to the meeting of that demand?

Now if the fundamental course in economics be part of a system of training for citizenship rather than for scholarship — and in the case of 95 per cent of our boys and girls this will be its actual function — it should be clear that it has a large mission to perform in that training. The citizen needs both to know and to understand the facts and theories with which our science is concerned. He needs, even more perhaps, a mind alert, vigorous, critical, disciplined and practised in handling economic questions. Many, one might almost say most, public questions today have an economic bearing. Many are distinctly economic. Practically all of them demand the same capacity for sustained reasoning and clear analysis as do economic problems. To train effective thinkers is to train effective citizens.¹ And such training, when properly presented, our science is preëminently fitted to give. It has special advantages as a mental discipline. It is effective and thought-provoking beyond most subjects; it takes hold of current problems and discussions and so of the student's interest and it deals with the very stuff with which our students deal later as citizens. Following this American ideal we restrict in a measure our endeavors in dealing with the undergraduate. We aim not at learning for its own sake; the history of our theories is not of essential importance to the future citizen; we do not present a subject; we do not inculcate a set of doctrines; we are not concerned with instilling a mass of facts. These may be worthy ends but they are not the first need of

¹ "At least twelve college presidents have said to me in the last year that in their judgment the chief advantage of a college course is learning to think." C. S. Cooper, *Why Go to College?*, p. 152.

citizens. We would create the disciplined mind, capable of and practised in economic reasoning; we teach students, not a mass of facts; we train minds rather than develop a subject; and we are interested in citizens as a product rather than in scholars.

In the college thus devoted to the training of the citizens and in the presentation of our subject as a first course, the central factor is the teacher. Texts, manuals and collections of materials may aid his work; they are in no sense or degree a substitute for him. They do not lessen the need for teachers of superior merit; instead they intensify that need. None but the well-poised, broad-minded man, gifted with the true teacher's insight, and knowing the American student with the same precision of knowledge and intimacy of everyday acquaintance that the student of inheritance expends on his guinea pigs, will be able to relegate the machinery to its proper place of subordination to the result. Teachers and paraphernalia exist only as aids to the student. Both are useful only as they stir him to self-activity. Each may be anathema if they interfere with, discourage, or deaden his mental activity.

It is here that the damaging effect of the borrowed German ideal of education becomes potently manifest in our American colleges. The teacher has been subordinated to the scholar;¹ the needs of the students to the

¹ Compare the positive statements of a well-informed and friendly English critic — speaking of Harvard generally: "Most of the professors care first of all for the advancement of science and scholarship; they prefer lectures to large audiences to the catechetical instruction of multiplied, 'sections' . . . and, to be perfectly frank, they are not much interested in the ordinary undergraduate." Referring to the young instructor: "Let him remember that his promotion will depend largely upon his showing the ability to do independent work; let him take care not to be so absorbed in the duties of his temporary position as to fail to produce some little bit of scholarly or scientific achievement for himself." W. J. Ashley, *Surveys*, pp. 458-460.

And an English critic of another school: "The Professor is too often over-specialized and incapable of forming an intelligent, modest idea of his place in education. . . . He stands between his students and books, he says in lectures in his own way what had far better be left for other men's books to tell, he teaches his beliefs without a court of

demands of productive scholarship; and the true test of the teacher's success, his ability to stir students to effective thinking, has been lost sight of in the earnest search of the universities for the capable scholar. Here is no quarrel with the professional scholar, no failure to understand the function of the university as a place of research, no belittling of the output of American scholarship. Here is only an attempt to differentiate between the graduate school as a professional school, training scholars, and the college as an American institution, training citizens; between the scholar's function of research and authorship and the teacher's work of developing student minds. One spends his best energies and abilities in the search for truth; the other in the education of ingenuous youth. And it is submitted that the time has come for a clear division of labor between these two groups. It is believed that nowhere in society will the advantages of this principle be more clearly manifest and largely fruitful. No man can serve these two masters, for either he will neglect his students and spend himself freely on book production or he will give his best efforts to his students and fail of preferment. For the universities bid high for the scholar whose abilities are manifest in his published works, and have scant facilities for learning of the teacher whose merits are known only to his students, and to them ten or twenty years later.

Yet it should be evident that ability to carry through research is no earnest of ability to teach students. The qualities demanded are diverse, almost conflicting. One spends thought on materials in libraries, museums or laboratories; the other exercises his ingenuity and

appeal." "Our universities and colleges are still but imperfectly aware of the recent invention of the Printed Book and its intelligent use in this stage of education has made little or no headway against their venerable traditions." H. G. Wells, *Mankind in the Making*, p. 209.

imagination in acquiring full information of the state of mind, toward his subject of some scores of undergraduates. The scholar pursues truth; the teacher aids in the development of immature minds. One deals with natural phenomena; the other with human nature. The scholar may be a helpless scientific manager before this hard fact of undergraduate human nature or he may prove as inept at teaching as an artist at painting if he had full knowledge of the theory and history of art and had not yet put brush to canvas. It may be doubted whether one filled with a great zeal to enlarge the bounds of human knowledge will be equally burning with desire to enlarge the content of the undergraduate mind, or inject structure and discipline into its void.¹ Equally men truly called to teach may feel it a hardship when faced with a demand to justify their calling with substantial scholarly productions while fulfilling also the full demand of an American college for classroom work and in conscience bound to do their full duty by their students. Both time and energy must fail in the face of the double demand.²

It cannot be too much and too often insisted that the central figure in the educational structure in America is the college teacher. These men set the requirements which secondary schools meet. They fix standards to which the undergraduates measure up. They determine

¹ "The American college teacher has too often been chosen simply because of his scholarship."

"The young professor is scholarly and expert in his knowledge of his subject but utterly without ability to impart it with interest. He lacks driving force as well as guiding and regulating force. He seems at times without the capacity for real feeling." C. S. Cooper, *Why Go to College?* pp. 74-75.

² "More often the thinker has lived by teaching, and modern University organization is deliberately aimed at creating such a relation between teacher and student as shall both stimulate the teacher and train the student. In the moral sciences this arrangement is the main source of modern Thought. But it is not wholly successful. There are hundreds of cases in which a professor's teaching spoils his thinking, and these are balanced by hundreds of others in which his thinking spoils his teaching." Wallas, *The Great Society*, pp. 186-187.

the caliber of men sent on to professional and graduate schools. The college teacher's methods are reflected in secondary schools, for they train the teachers. And they give final bent and direction to the vast majority of our liberally trained men and women. The spirit instilled by the college instructor and the discipline and ability to think clearly which his efforts produce will be certainly evidenced in public discussion and in secondary instruction. But the teacher's function will not be adequately performed unless its importance is adequately estimated and rewarded by the universities. When the American colleges search out and compete for sheer teaching ability; when the test of a college teacher's fitness and preferment rests on no other basis than his ability to teach students; when the teacher is freed from other demands than such as pertain to his better preparation for teaching, then and then only, naturally, may we expect to get the better results we crave. There is no lack of good ability nor yet of devotion to this splendid service. But the change in emphasis needed cannot be achieved by isolated men, however capable or devoted. Nor yet can it be brought about by the sternest effort of an isolated institution. Intercollegiate competition sets standards near those of the least admirable in education as surely as similar business competition holds down standards in the industrial realms. We look to the great universities of America for leadership in this change of emphasis from the German to the American ideal; from the demand for the scholar to search for the teacher; from subordination of the teacher's functions to the demands of productive scholarship. Theirs is the proud position of leadership, and to them fall the duties involved in that position. They can give us this new division of labor. If they dignify and enlarge the work of the teacher, *as a teacher*,

others will follow. If these undergraduate teachers are called on to conduct courses of instruction framed after careful consideration of the needs of students fitting for life as citizens of our democracy, that model will rule in American education.

Granting that this change in emphasis may be secured; that college teachers will be hired to teach; that they will be retained and advanced with as much regularity and liberality when they fill this demand as are their scholarly associates of the graduate school when they produce a worthy book; that their entire stock of energy and all their ability are to be devoted to the solution of the problems of teaching students; that they realize that the true test of good teaching is found in the degree of advancement achieved by their students — granting all this, we may anticipate momentous gains in the wit and wisdom with which our subject, among others, is presented. It is again a matter of emphasis rather than anything startlingly new. Good models, worthy the closest scrutiny of the teacher of economics, are found in the laboratory methods of the scientists, and in the case system of the law schools. In these diverse subjects, different methods and appliances are used but all agree in the essential idea that the best teaching, and the only good teaching, is that which stirs the student mind to activity, which induces thought and demands as its test of success proof of capacity for independent judgment, self-directed initiative, and critical analysis. We learn to think only by thinking.¹ The student cannot benefit by the vicarious study and thought of his scholarly instructor. He may gain

¹ "Unless the students are actively engaged not simply in taking in what they are told, but in rearranging it, turning it over, trying and testing it, they are doing little good. We recognize this quite abundantly in the laboratory nowadays, but we neglect it enormously in the more theoretical study of a subject. . . . Ideas of a subject must be handled in discussion, reproduction and dispute." Wells, *Mankind in the Making*, p. 305.

largely if the same volume of thought is expended in study of the class of which he makes one. This is the teacher's field of investigation renewed with each new class. There is no substitute for the mind to mind work of the teacher. If he does not find the undergraduate mind as fascinating as the evolution of the nervous system he is probably better material for a scholar than for a teacher. If he cannot arouse the same enthusiasm over methods of awakening that mind that he feels over newly invented methods of investigation he should shun collegiate teaching; and if the evidence of solid advance in thought ability manifest in the examination books of his class does not bring the same glow and warmth as the sight of his own latest book he should seek his rightful place in graduate school research.

It is in this spirit that we welcome the stream of books proffered as aids to the teaching of elementary economics in American colleges. They represent the spirit of revolt against the present situation. They supplant the lecture with teaching. It should be obvious that the lecture in these days of easy and cheap book printing has no necessary place in the teaching of economics. It consumes valuable class-room time — time when minds should be actively engaged — in the thought-deadening business of receiving and recording another's thoughts,¹ which might better first be read from a printed page and discussed later in the class-room. The supreme business of our course is to get as much effective thinking done in the year as possible. Right economy of time demands the retirement of the lecture. Consideration of its

¹ Cf. a classic description of the lecture method in actual practice. "They do not listen, however attentive and orderly they may be. The bell rings, and a troop of tired-looking boys, followed perhaps by a larger number of meek-eyed girls, file into the class room, sit down, remove the expressions from their faces, open their note-books on the broad chair arms and receive. It is about as inspiring an audience as a room full of phonographs holding up their brass trumpets." E. E. Sloason, *Great American Universities*, p. 520.

effect on the student's business of thinking actively enforces the demand.¹

Agreement with this point of view disposes at once of some of the aids which the new books proffer. Mere outlines of lectures — notes made to save the student's ink — are valueless. Of similar sort are the elaborate endeavors to simplify the study of economics through the use of diagrams and illustrations. It is not thus that one thinks effectively of things economic. It is not so denatured that our student is to find economic problems later as a citizen. Our function is not to painlessly and surreptitiously make lodgment of our doctrines in the student mind. It rather behooves us to stir him to high endeavor and give continual exercise to his mental muscle; to send him out finally well exercised in economic thinking and confident of his ability to perform well in that field.

From another angle we reject attempts in various guises to give aid by arousing interest. Selections and questions which have no other basis than this have no

¹ One may add the indictment of the lecture method at Oxford in 1878 from Jowett's note-book:

"The present teaching at Oxford is,

1. Utterly bad for the students.
2. Mere reading to the students.

But on the other hand,

1. It is flattering to the teacher.
2. It enables him to pursue his studies."

The opinion of Johnson at a much earlier date: "People have nowadays got strange opinion that everything should be taught by lectures. Now, I cannot see that lectures can do so much good as reading the books from which the lectures are taken. I know nothing that may be taught by lectures except where experiments are shown. . . . Lectures were once useful, but now, when all can read, and books are so numerous, lectures are unnecessary. If your attention fails and you miss a part of the lecture it is lost; you cannot go back as you do upon a book." Globe edition of Boswell's Life, pp. 174, 561.

That of a well-informed critic recently published: "The lecture system has many advantages. But if introduced too early in the course of education it is in peril of substituting general facts and general knowledge for close study, and it is also in danger of training the memory at the expense of the logical faculties. Furthermore, this peril is enhanced when students attend so many lectures that they have little time left for reading, and less time for reflection." Fleming, *Universities of the World*, p. 268.

claim on the teacher's consideration. They divert attention from the business in hand. Time is wasted when time is precious. The student is not prepared to differentiate the sham from the real. And, beyond all this, the subject needs no such adornment. This is mistaking the entertaining for the interesting. It signifies lack of insight into the basis of interest. Interest grows in any worthy subject through hard work and conscious achievement. It enlarges in direct proportion to the growth of knowledge and knowledge is won through severe study. We should demand and enforce, then, plentiful mental exercise, reject all adventitious aid, relying for interest on the growing understanding of the students. Interest in heredity may induce a student to care painstakingly for a colony of mice, weigh their food, measure and regulate their indulgence in alcohol, count, weigh and observe the development of their progeny. All this he does with meticulous care if he understands his subject, and counts it a fascinating task. Wonderful is the interest in baseball statistics displayed by the capable fan. Will not similar mastery of economics bring like interest without these adventitious aids ? ¹

Based on a different conception are the various collections of materials and selections. The undergraduate, we are told, lacks a factual basis for economic thinking. The sophomore boy or girl has not sufficient knowledge of industrial conditions to enable him to apprehend the theories propounded. Much of this undoubtedly is true. The teacher may have moments

¹ " Of the assertion that it is expedient to arouse an appetite for both the facts and the theory, at least this much may be said by way of discussion: that spectacular teaching, the teaching generously interlarded with thrills and anecdotes and sentiments, is poor teaching; that a sustained interest is best maintained by inducing the student to do plenty of intelligent and hard work and by the daily stimulus which the live teacher knows how to impart; but that despite these truths it is justifiable and expedient to study carefully how the interest of the student may be aroused and maintained." T. S. Adams, at the 1911 Chicago Conference.

when it is revealed to him that more facts would make his conceptions clearer, his insight surer. Even the scholar may win to wisdom at the end of the road and realize that only infinite knowledge would prove an adequate basis for his ambitious, heaven-aspiring theories. But this is not for the undergraduate. His business is to begin economic thinking, not end it. Our duty is to start him on that road, not admire his triumphant finish. We get a sophomore to teach; a sophomore produced under American conditions, where home and social group must often fail as supports to our teaching. We teach students drawn democratically from the body politic. We cannot expect this group to assimilate readily and classify accurately the valuable selections garnered in our scholarly excursions. There are limits to the most capable sophomore's digestive ability. And mental indigestion in the teaching of elementary economics is a serious malady. Given a good text, a willing student and a gifted teacher who understands the individual sophomore, aid can be found in the use of selections assigned because the need is evident and the student has been led to feel it. Reading to satisfy interest and reading to cover assignments are vastly dissimilar in results. A few supplementary references, of clear-cut character and considerable length which fill gaps in information well apprehended by student and teacher, are undoubtedly essential. But only a scholar can appreciate the monumental mass of selections at hand and the elementary course is too burdened with essential tasks to make their large use practical.¹

¹ The following statements are from the preface of a recently published collection — Hamilton's *Current Economic Problems*. "The readings which follow have been selected from the most miscellaneous sources. They represent all the prominent attitudes, from the most conservative to the most radical, which condition the direction of our development. They are written by men possessed of the widest variety of opinion — economic, political and sociological. They represent emotionally as well as intellectually

Of similar character is the suggestion carried in our aids that the student may be expected in his first approach to the subject to compare various theories and even systems of economics. Six theories of wages in an elementary economics manual may make any teacher pause. Suggested readings including such widely dissimilar theorists as Patten, Fetter, Clark, Taussig, Adams, Smith, Marshall, Hobson, may well arouse wonder. That any sophomore could make intelligent use of them passes belief. That a practical teacher with abundant every-day contact with American sophomores and with wisdom in appraising the results of his teaching would long continue such methods seems incredible. Ours is a more prosaic and simpler task. For critical examinations of theories and texts, old and new, of systems of economics established and proposed, our work may be a preparation; but our students must learn to stand and walk in the economic field before we demand that they avoid pitfalls and dangers that tax the expert abilities of the tried warriors of economic controversy. These suggestions are discouragements rather than aids to both student and teacher. We recognize here a recrudescence of the German ideal of learning — a denial of the American ideal of training for sound citizenship. This overshoots the mark of the undergraduate teacher's task of developing immature economic minds. We do not aim at completeness of knowledge primarily but rather at effective ability to grapple with economic questions. Hence we reject such suggested aids.

The solid achievements of the new literature would seem to be the suggested questions and problems whose

usually. . . . They contain sound argument, good judgment, truth. They contain, too, much of overstatement, fallacious reasoning and falsehood. . . ."

This collection is designed for use as the "principal pedagogical instrument" in a semester course in current problems or in connection with a text in general theory. In both cases problems and exercises serve "as supplementary material."

purpose is to stimulate and direct the student's thinking. Given an adequate text and teacher, comprehension enough to be content with *one*, nothing can be better than questions which test the student's apprehension of the text; exercises which require his alert application of theories to concrete situations; problems which test his ability to analyze situations and discern the bearing of various social forces and factors. This is closely akin to the demand made on the citizen. It is hence a preliminary exercise fitted to develop ability to meet that demand. The more concrete, practical and up-to-date these exercises can be made, the better. They must be varied and constantly changed. The student must understand that he is not solving problems but apprehending theories; not memorizing answers to questions but testing the caliber of his understanding of economic principles. One hastens to add that the number of such exercises used should be strictly limited and nicely adjusted to the needs of the class in hand; ideally, indeed, adjusted to the individual student. Much of the matter contained in the more extended manuals represents an attempt to put the teacher between covers, an attempt foredoomed to failure. This will be evident to anyone who attempts to use these formulated questions with a class of students. Many are unnecessary and wasteful of precious time, for every class represents diverse capacities and is possessed of vastly different stores of information. Others miss fire altogether, for the class cannot be expected to be armed at all points and universally alert. Still others require a degree of explanation and preparation before they are made effective that makes their use unduly laborious.

For all such machinery the essential substitute is an adequate text and a teacher of insight. He must know his class as he knows his text and subject — accurately,

precisely, and at every stage of their advancement. He must be as apt in class-room methods as a scholar in laboratory technic; he must understand the stage of development of each class — if possible each student — as accurately as the investigator does the stage of advancement of his problems. This is his work — a job to tax his wisdom and knowledge. There is none more difficult and fascinating, as there is none more worth while.¹ Such a teacher will not be at a loss for questions and exercises to stimulate student thinking in the unexplored corners of the subject in hand. Such a teacher will speedily relegate extended books of problems and questions to his reference shelves and invent and adapt daily in his mind to mind teaching the most effective exercises. There will be some exercises repeated year after year in every class. But even here the problems set must be varied. Such variation provides an attractive up-to-dateness. But of much more importance is the effect it has in breaking up the notion that the solution of a given problem is the end sought. The instruction must inculcate the notion that principles are being developed and the student's grasp of them tested. How important this may be, practised and earnest teachers of American sophomores will understand.

This discussion, then, leads to the conclusion that the genuine aid derived by the teacher in class-room work from the new helps in teaching elementary economics will be slight. The benefit derived by the American sophomore intent on mastering that subject will not be great. The best feature of the proffered aid is the exer-

¹ Compare Jowett's obituary of his friend Luke, a tutor: "He understood perfectly the secret of success as a College Tutor. The secret is chiefly devotion to the work and consideration for the characters of young men. No young man is really hostile to one who is laboring, evening as well as morning, wholly for his good — who troubles him only about weightier matters — who knows how to sympathise with his better mind — who can venture to associate with him without formality or restraint." *Life and Letters of Jowett*, vol. i, p. 332.

cise and problems material. Every progressive teacher will find helpful suggestions here. Yet every such teacher will find that it needs adaptation to the present need of each class that he teaches. It is agreed that the manuals are most useful in the institutions of their origin and in the hands of their authors, and the reason is that *there* they best meet the students' needs. For the student as he stands in economics is the central — one is tempted to say the unknown — factor in the equation. We welcome the manifestations of interest in the teaching problem. We repudiate the suggestion that that problem can be solved by the production of scholarly books. We would exorcise the productive scholarship ideal here and replace it with that of developmental teaching. We want the research instinct applied to the undergraduate mind. We want freedom and appreciation for the teacher in his own person and for the exercise of his own function.

That such change of emphasis will yield great returns there is abundant evidence. Let any capable economist examine his own progress in the subject. It is certain that his ability and grasp grew through his own and not through his instructor's mental activity. It is equally plain that this points the direction of his efforts as a teacher. Economists are familiar with the pertinent example found in J. S. Mill's description of his severe training at the hands of his father. We are inclined to sympathize with the son on remembering the heroic character of the father's demand for effective thinking. But that teacher developed one of the most capable economists in the subject's history.¹ Many of us will

¹ One may fruitfully consider Mill's own judgment in this connection. "It is, no doubt, a very laudable effort, in modern teaching to render as much as possible of what the young are required to learn, easy and interesting to them. But when this principle is pushed to the length of not requiring them to learn anything *but* what has been made easy and interesting, one of the chief objects of education has been sacrificed." Autobiography, p. 52.

have read of the self-directed efforts of Carl Schurz in mastering the language of his adopted country. More will know of his perfect mastery of English. That students respond and results are adequate to compensate the energy expended is proven by association with students in laboratory courses; with men studying law under the case system, or by consideration of the methods and results evidenced in the Wellesley German department.¹ Always the interest is vigorous and active, the result is sure and gratifying, if capable teachers adapt teaching methods to the end of stirring the student minds to activity, willingly spending laborious days in apprehending the content and needs of that mind, and holding the student to a standard of real effort and advancement.

For we note that teaching efforts and manuals alike fail if there is no rigid maintenance of a high standard. The elder Mill knew no quality of mercy here. We may not measure up to his severity in dealing with American students. We recognize the facts in our problem. The American college deals with students drawn from American homes and secondary schools. In state universities, in particular, we owe a duty to each student who appears. We may anticipate a ready reaction on secondary school requirements if the universities set the pace. But in America generally we must as American teachers face the American situation. This is to suggest that our students will come to us from various homes and social groups. They will not come in many instances in our new society from cultured homes. Back

¹ "The drastic thoroughness with which unpromising students are weeded out of the courses in German enhances rather than defeats their popularity among undergraduates." Florence Converse, *Story of Wellesley*, p. 142.

Professor Müller: "Now *joy*, genuine joy, in their work, based on good, strong, mental exercise, is what we want and what on the whole we get from our students. It was so in the days of Fräulein Wenckebach and is so now, I am happy to say—and not in the literature courses only, but in our elementary drill work as well." *Ibid.*, p. 141.

of them is no history of educational achievement in the family record. Around their youth was thrown no spell of books and quiet thoughtfulness. Sons and daughters of pioneers and immigrants meet the college teachers in America. They are splendid in ambition, capable in intellect, responsive and loyal, not slothful in spirit, and resilient in mind. But the teacher of insight knows that pioneer America cannot expect for many generations to send the colleges men and women of great home-acquired culture. The teacher must measure growth and achievement rather than the absolute result. He must understand his student as he enters his class; appreciate his endeavor and advancement in the subject; and accept the result if a normal amount of real mental growth is shown. Thus the college has fitted for better life as a citizen. Thus the teacher has worthily fulfilled his mission. Thus the student has economically spent the valuable years devoted to his college course. To effectively aid in this mental growth and understandingly measure it is the teacher's function. It suggests again his central position in the American college.

If one apprehends the American college student in his peculiar and worthy character, the next question in view is that of the American collegiate situation. Here, as was suggested above, we meet the question of inter-collegiate competition. This enforces the conclusion that reforms must originate above. The leaders in education must give us the lead in the new emphasis needed on teaching and teachers. Similar in effect is the interdepartment competition within the college. No department or teacher can in fairness and in practice exact a higher standard of performance or result than the others in the college, or indeed, than the general educational level of that section of the country. This means that the teacher or department cannot be

judged harshly if he fails of the high standard of the elder Mill. As he has differently prepared material so he has hampering surrounding conditions. The standards he sets, if they be attainable through hard work, will be met, and cheerfully met. The larger demand brings compensating larger interest based on conscious growth and mastery in the subject. But the practical problem in America today is to get the standard of acceptable performance in our subject of economics materially advanced. And the concluding suggestion of this paper is that we look for light and leading to the great universities. Let them but set the example, demonstrate the result, through right teaching train teachers imbued with the teacher's interest, *i. e.*, interest in training students, and all else will follow in due course. Their established position renders them immune to the handicaps of competition closely besetting the usual American college and the usual economics department. Their recognized position of leadership places the obligation squarely upon them, and only their assumption of the duty promises the beneficial modification of the present situation. The college teacher cannot make a demand for results higher than that established in his college; the college cannot demand severer study than the going rate in the district. But the university in its position of leadership backed by its acquired prestige is not so limited in setting standards and demanding their fulfilment. The democracy needs disciplined minds; the colleges must therefore enforce this discipline. In doing so they will serve the state, benefit the student, lighten the teacher's work and astonish themselves with the gain in class-room interest and in the enjoyment of the subject by the students. Then the teacher will win back his rich domain abdicated for a season through the lure of productive

scholarship. He cannot be forced from his kingdom by any assault of student activities or failure of student support. His powers are plenary. Let him but exercise them. Let the universities but hold up his hands.

This then is our argument. The correct American ideal in the undergraduate course in economics is training for citizenship in the largest meaning of that term; in that training the teacher is the fundamental factor; the college must search for, reward, and support the teacher, making a new division of labor between teachers and scholars, and expecting from the undergraduate teacher the expenditure of his abilities freely on the teacher's function. Given such an emphasis on teaching the proffered helps will find their proper subordinate and limited sphere, the lecture will be abandoned, the attempt to over-crowd the course will be given over. We will settle down to the business of training to think in economic realms, to developing such sophomore minds as American conditions send. To do this efficiently we must uphold a higher standard of results and exact a severer discipline. To effect this change in emphasis and secure this elevation of standards we look hopefully to the leading universities. Theirs is the ability, the opportunity, and the duty.

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THE FALL IN GERMAN EXCHANGE

SUMMARY

I. Is there currency inflation in Germany? 109. — Some reasons for doubting it, 111. — II. International payments where the movement of gold is restricted, 112. — Exchange in New York since 1914; sterling exchange in 1915, 114. — III. German exchange and its decline, 115. — German payments to the United States, 116. — American payments to Germany, 117. — The balance favorable to Germany, 119. — IV. Germany's balances unfavorable in other neutral countries, 119. — Settlements made via New York affect mark exchange, 121. — Scandinavian exchange and its adjustment, 123.

THE great war has given rise to many economic phenomena the analysis of which will greatly modify some of our theoretic conceptions. There is a tendency to ignore these changes as much as possible, by explaining the complicated new problems by old seasoned formulas, without careful inquiry into the nature of the new facts. There is no better illustration of this fruitless endeavor than the discussion of the German exchange.

The argument in that case is based on the following facts and assumptions of fact. (1) The paper currency of the German Empire has increased considerably. (2) The bank notes which form the bulk of this currency are not any longer convertible in gold, tho they are legal tender. (3) Prices all over Germany have risen considerably. (4) The German mark valued in foreign currency has declined considerably. Surely, it is said, these are the essential signs of currency inflation and currency depreciation.

This explanation of a very complicated problem may be gratifying from a political point of view. But as an effort in theoretical reasoning, it does not lead to any new results and it overlooks many new facts.

I

The question whether the German currency is overabundant or not cannot be answered at present in a scientific way. We know that the paper circulation of Germany — all sorts of paper included — is now about two billion dollars. We know that the circulation of paper in time of peace varied between 400 to 600 million. That seems to prove pretty clearly that there is a redundant currency. There are a few things, however, which we do not know accurately, but which we ought to take into account.

Gold has disappeared from circulation. We do not know the exact amount of it; we can assume that a considerable part of the gold formerly in circulation has been handed over to the Bank. The visible gold fund of the Bank has grown by 250 million dollars, but it is impossible to state accurately the amount of bank notes which have taken the place of gold formerly in circulation. We know that the area served by German bank notes has increased enormously. It has been estimated that the occupied territories in Courland, Belgium, France, etc., which are served by German bank notes have a regular demand for 250 to 500 million dollars in notes. We do not know to what extent cash payments have taken the place of payments by instruments of credit. The mobilization of an army and the maintenance of huge bodies of men revolutionizes a nation's system of payments. New currency spenders arose everywhere; new centers of receiving money were created. We learn from all countries that an increased demand for currency has arisen, not so much on account of the spending governments, as from the people who receive wages and salaries. There was a serious short-

age of small cash everywhere. Even now there is a continuous demand for very small notes and for small coins; the German government has been obliged to issue large quantities of small coins. We have no sufficient data about the total amount of new currency needed for purchasing and selling. And we can only guess whether the amount of circulating medium issued is redundant or not. The only fact we know with certainty is that there are complaints of a shortage of currency amongst the public. And the government is trying hard to improve the German system of payments by facilitating the use of checks and by improving the clearing house system.

On the other hand we know that prices have risen considerably; they have not risen uniformly. It is possible of course to term any fairly uniform rise of prices "currency depreciation." In doing so we merely gain a term, not an explanation. In studying a currency problem we are interested to know why this so-called depreciation has come about. Is it due to over-issue of paper or to shortage of commodities? The scientific problem begins only after we have proved the existence of this so-called depreciation. I am inclined to think its explanation is just the reverse of that usually given. Prices have not risen because bank notes have been issued, but notes had to be issued because the enormous new demand for goods and a dislocation of the ordinary credit machinery brought about a rise of prices which could not be dealt with except by additional money issues. The purchasing power of a modern government drives up prices all over the world, if the trade routes are free. In a case like Germany's, whose purchasing area is restricted to central Europe, the effect of such a demand would have been simply overwhelming, if price regulations had not been resorted to. As it is, the existing shortage of goods affects the currency considerably,

notwithstanding all government interference. In an ordinary year, fifteen million tons food-stuffs are consumed in Germany; last year there were but ten millions. The total amount of currency needed for the purchase of the smaller crop was probably greater than the amount wanted for the bigger crop.

As long as the war lasts, we scarcely have the necessary data to search out the real nature of the so-called depreciation. But even today there are serious reasons why we should doubt the explanation given in accordance with former experiences.

(1) There is no close connection visible between the amount of bank notes issued and the level of prices. A large share of the bank notes is issued against treasury bills. When a new permanent loan is contracted, treasury bills are not renewed for some time. The number of bank notes in circulation is greatly reduced. As far as I know, no corresponding move in prices has been recorded.

(2) There is no premium on gold and there is no disappearance of gold. Gold disappeared from circulation, but not because it was driven away or because it was hoarded. It was exchanged by the people against bank notes, without a premium. Undoubtedly appeals to patriotism were made in Germany and in France to induce the people to part with their gold. Must we assume that nations have become so patriotic that their citizens do not dare to hide a gold piece and are willing to hand it in for what they consider deteriorated paper? Or is it not easier to assume that they do not believe in the deterioration of their paper in relation to gold?¹

(3) The foreign exchanges do not show a close correspondence with the amount of circulation issued. When the German bank note issues are contracted, there

¹ In Russia the Imperial bank pays a bounty of 45 per cent for gold handed in.

is no corresponding rise in exchange. This absence of connection is very clearly visible in the case of England. About a year ago sterling exchange in New York was \$4.56; today it is \$4.76; England's note circulation (bank notes and currency) was £86.3 millions; today it is £76.6 millions, and the gold reserve has fallen from £97 millions to £85.6 millions.¹ But exchange has risen.

I do not wish to say that there is no currency depreciation in Germany, or that this depreciation — if there is such a thing is not due to an over-issue of bank notes. These questions cannot as yet be answered in a strictly theoretical way. But it can be shown what has brought about the fall of German exchange in different countries.

II

To the practical financier, foreign exchange is the price of a payment in foreign currency expressed in his own currency. If the foreign currency is depreciated, he gets it cheap; if it is appreciated, he has to pay extra for it. If both currencies are gold currencies, depreciation and appreciation (discount and premium) are limited by the cost of transporting gold. If the foreign currency is a silver currency, without fixed relation, or a paper currency, the movements of premium and of discount have no fixed limits. In such a case the rate of exchange at a given date is determined by the ratio of maturing payments due to one country, and those due from this country to other countries. The value of imports and services received from abroad constitutes the liability, the receipts from exports and services rendered to foreign countries constitute the assets. Both sides are really valued in gold. The imports to a country with paper currency are fixed in gold in the

¹ September 2, 1915 and August 24, 1916.

exporting country, and the exports are valued in gold at their destination. But for this, the correlation between countries with paper currency and those with a gold currency would be very difficult. The essential distinction between countries with gold currencies and those without them is the method of adjusting the balance of payments. Countries with a real gold currency are comparatively rich countries. They can afford to keep a part of their capital in gold, in the vaults of their banks or in circulation. As soon as their balance of payment is unfavorable, gold flows out automatically. Or if for some reason this is not desirable the country parts with some of her assets. Foreign bills which have accumulated in the banks are sold; or if it is a serious situation which cannot be dealt with in that way, stocks and shares of foreign enterprises are disposed of. An export of capital takes place. This is one way of adjusting the balance. The other way is the flotation of credit in foreign countries. That may be done by the mere prolongation of bills, or by the opening of new bank credits against which drafts may be sold, or by the flotation of a foreign loan. As the countries with an unrestricted gold currency are the rich countries, an unfavorable balance of payments is for them nearly always of temporary character; it can nearly always be adjusted by transitory measures. Countries with a paper currency are poor countries (from a monetary point of view). They have neither gold nor securities to export. This being so, they find it much harder to get credit when in difficulties. In their case an unfavorable balance of payments is adjusted in a different way. Their imports contract, because the cost of getting gold-priced commodities is rising, when paid for in depreciating paper; whilst the proceeds of their exports to gold-paying countries net them more paper at a falling rate.

As a paper currency has always been the currency of a poor country, which had neither gold nor investments nor cheap credit to adjust an unfavorable balance of payment, a falling exchange easily suggests the idea of bankruptcy.

The war has greatly affected the practical foundations for regulating international payments. Oversea communications are cut, goods can no longer move as they moved before. Even where communications are open the free export of gold does not exist anywhere today, not even in the United States. The only communications which are fairly free are the wireless. As our theoretical assumptions are based on free movements of goods, services, gold and securities, the changed condition of affairs must affect them somehow.

The most interesting illustration of this state of affairs is the movement of the foreign exchange in New York at the beginning of the war. Sterling exchange jumped from about par to \$7.00. The reason was simple. American liabilities abroad were heavier at that date than American assets; goods and services to adjust the balance could not be sent abroad. Gold could not be exported, securities could not be forwarded; credits could not be opened. But payments matured and the competition of honest debtors who wanted to fulfil their obligations drove exchange to about fifty per cent above par. Currency questions and inflation had nothing to do with it. A second illustration is the fall of English exchange in the summer of 1915. England's circulation no doubt was somewhat redundant. But her gold reserve was considerable; she exported gold freely, she exported securities also. Yet exchange went on falling until she contracted heavy loans abroad and organized the sale of her securities. Since then her exchange has been fairly steady, tho her currency is

expanding regularly. She has to settle a balance of payments getting more unfavorable every day; she has adjusted the rate of exchange by (a) exporting gold, (b) selling securities, (c) contracting loans. These suggestions may make it easier to understand the German situation.

III

Just before the outbreak of the war, the German mark in New York stood nearly at par. It rose immediately to 104 (cable), as large blocks of German-owned securities were sold in New York, and the money from the sales was remitted. After a period of completely interrupted communications, German marks were sold and bought once more. As time went on the mark declined, until the average rate has come to be about 70 cents for four marks. During this period the commercial relations between Germany and the United States became less frequent every month. Since March, 1915, they have nearly come to a standstill.

It is easy to understand the decline in German exchange in New York which took place at the time when the great cotton shipments had to be paid for, and when very few commodities came from Germany. When the cotton movement came to a standstill, mark exchange was quoted at 82 $\frac{1}{2}$. But there has been a further decline. Today (October, 1916) exchange is 70 cents.¹

¹ The par in New York is 95.2 cents for four marks. Cables have been quoted as follows:

Week ending	October 30, 1914	89-88
" " February 19, 1915	85 $\frac{1}{2}$ -84 $\frac{1}{2}$	
" " March 19, 1915	84 $\frac{1}{2}$ -82 $\frac{1}{2}$	
" " October 29, 1915	82 $\frac{1}{2}$ -81 $\frac{3}{16}$	
" " November 27, 1915	80 $\frac{1}{16}$ -80 $\frac{1}{2}$	
" " January 24, 1916	75 $\frac{1}{2}$ -73	
" " March 31, 1916	73 $\frac{1}{2}$ -73 $\frac{1}{2}$	
" " July 22, 1916	73 $\frac{1}{16}$ -73	
" " October 3, 1916	69 $\frac{1}{2}$	

Until the spring of 1915 indirect imports to Germany from the United States via neutral countries were considerable. Whilst direct imports of cotton to the Central

If German-American relations were considered as an isolated phenomenon, the mark would be at a premium today, as it was in the first days of August. Notwithstanding the so-called depreciation of the German currency, the balance of payments is in favor of Germany. But gold cannot be sent to Germany; the United States do not own German securities they could return; Germany could scarcely give credit to the United States. A more detailed statement will show plainly that this is in reality the situation.

German payments in the United States are as follows. (1) Salaries of German officials. (2) Support of stranded Germans and the like. (3) Interest and dividends on American concerns in Germany (insurance companies, etc.). But the fall in exchange makes a remittance to the United States rather expensive; a remittance of \$1000 costs 5470 marks instead of 4197 marks: American capitalists have a strong inducement to keep their balances in Germany. (4) Profits on American bank balances in Germany. These balances are small, the profits are likely to be kept in Germany. (5) Interest on American-owned German securities. There may be a few investments made before the war (City of Frankfurt bonds were at one time issued in New York). Some American insurance companies may hold a few German bonds over the amount required for their business in Germany. German citizens in the United States and American citizens with German connections hold some German shares and bonds. There has been a lively interest taken in this country in German war bonds. The yearly interest due on them may be about 2 million dollars (this varies with the exchange). (6) The cost of maintaining the German ships. This,

Powers for example fell by 2½ million bales, imports to neutral neighbors rose by 1.67 million bales. Germany imported about 1½ million bales. Payments for imported cotton must have been well over one hundred million dollars.

by far the heaviest regular item, is much smaller than commonly assumed.

Notwithstanding the impossibility of shipping goods to Germany, there were heavy purchases of goods some time ago. These goods have been paid for and the payments, when made, have affected the international balance. In the meantime a part of the goods has been sold, at a profit in most cases. What has not been sold constitutes the basis of excellent credits. Not all payments due by Germany to the United States have to be paid when they fall due. By the use of banking credit quite a considerable amount can be deferred.

American payments to Germany include the following items. (1) Interest and dividends on American securities owned in Germany. Tho there has been a good deal of liquidation, many blocks are still held. The total amount cannot be estimated before the census of foreign investments, recently ordered by Germany, has been completed. (2) Remittances to Americans residing in Germany or to Germans interested in American enterprise. (3) Remittances to American officials and commissioners. (4) Dividends and earnings on German-owned enterprises in the United States; for example the wireless stations, profits on bank balances, dividends of insurance companies. — So far as these items go, there is no essential difference between the nature of the assets and that of the liabilities; the favorable balance is established partly by the dividends on German-owned investments, partly by other items.

Other items are somewhat different. (5) There is a decided flow of capital from the United States to Germany. (a) Whenever securities are sold, tho dividends of course cease, the capital returns. Owing to the fall in the exchange dollar securities are sold at a large profit. A bond for \$1000 which was bought at 90 ten years

ago, cost 3744 marks; it would net 4923 marks today. (b) American subscriptions for German war bonds have created a considerable demand for marks. True, the paying of interest brings about a corresponding demand for dollars, but the demand for marks on a five per cent basis, is twenty times the demand for dollars.¹ (6) Besides German dividends from concerns in the United States, dividends from South America and from the Far East, are sent to Germany by way of New York. These items are very considerable. Receipts from the Far East alone, since the war began, compare favorably with the subscriptions of German loans in the United States. (7) In addition to the business transactions there are considerable remittances to Germany of a different character. (a) German-American charities have sent a good deal of money to Germany. Since the war began, the Red Cross and kindred associations have remitted over seven million dollars (the Jewish charities are not included). This is nearly double the interest due to America on German war bonds. (b) Remittances of German immigrants to their relations at home played no part before the war; as Germany was growing rich, they were no longer needed. But the estates of German citizens who died in the United States, had to be sent home; they contribute a large item. Since the war began, many Germans have been thinking anew of their relatives at home and have forwarded money to them. These sums, however, are small in comparison to what is sent home by Germany's allies, the Hungarians especially. Their remittances during the war have been estimated at eighty millions a year. They affect the German situation considerably. The Austrian immigrants buy crowns in New York; a large part of

¹ The small German loan of ten million dollars, which was floated in the United States in April, 1915, is not taken into account, inasmuch as it has been repaid.

these "crowns" is offered by the German banks, whose clients in Germany were paid in crowns. They have thus a chance of buying dollars. The fall in exchange is a great boon to the Austrian emigrants and their families. At normal rates, their dollar savings are worth 400 million crowns; today their value is 664 million crowns.

It is impossible to make up a complete statement of Germany's "balance of payments" with the United States. But the enumeration here made shows clearly that it must be favorable. None the less, quotations of the foreign exchange show a depreciation of the mark the world over. How can this seeming inconsistency be explained?¹

IV

Germany has an unfavorable balance of payments as far as her neutral neighbors are concerned — Holland, Denmark, Switzerland, Sweden and Norway. She has a favorable balance with Austria. She imports a great deal from the other countries, she exports also to them; but the value of her imports is greater than that of her exports. The balance is not redressed by services or sales of securities. It is not easy to get statistical information on these points on this side of the water. Neither Germany nor the neutrals are interested in helping the British blockade with accurate information. On the other hand, the British censor is very anxious to maintain in the United States the fiction that Germany's

¹ Quotations of foreign exchange in Germany have been:

	Par	Summer of 1916.
New York	4.19	5.173
Holland	168.	224 $\frac{1}{2}$
Scandinavia	112. $\frac{1}{2}$	158 $\frac{1}{2}$
Switzerland	81	102 $\frac{1}{2}$
Roumania	81	86 $\frac{1}{2}$
Bulgaria	81	76
Austria	85.06	60.35

foreign trade is cut off. He is not very keen to demonstrate to the American people that his policy discriminates against them. They are not permitted to send goods to Germany, whilst Scandinavia, Holland and Switzerland cannot be prevented from doing so. Whilst detailed information cannot be published before the close of the war, even the daily papers contain sufficient information to show that a large trade is going on. The result of this trade is an unfavorable exchange, and the balance has to be settled by payments. Tho it is impossible to state the balance, it cannot be less than several hundred millions of dollars.

In ordinary times, Germany would pay for imports either by bills on her banks or by remittance in foreign currency. Since mark exchange is subject to fluctuations, it is fair to assume that the foreign sellers try to avoid risks, and prefer payment in their own currency. Germany has to remit guilders, francs, and Scandinavian crowns. She gets them in various ways. (a) By selling her own goods; but owing to the state of war, her industries are unable to export on a large enough scale. (b) She might render services to her neighbors and draw interest on capital invested in their industries. That has been done in the past. At present her facilities for doing so are restricted. (c) She can sell securities; and this has been done in Holland and Switzerland to a considerable degree. But a large part of her securities are sequestered by the Allies for the time being, and others can be sold at a loss only. The Dutch and the Swiss markets cannot take unlimited quantities of foreign securities, and the countries in question were either not indebted to Germany before the war (Holland), or indebted to her in a moderate degree only. (d) She might export gold, as has been done in special cases. Since Germany is not a gold producing country and the

unfavorable balance will continue as long as the war lasts, this cannot be done on a large scale. The gold reserve in the bank has always been more than one-third of the outstanding notes; if it were reduced below 600 million dollars, a corresponding contraction of the currency would follow, assuming the ratio of the gold reserve to be maintained.¹ And the nation's business life could not stand such a contraction. (e) She could contract loans abroad as the Allies have done. This has been done undoubtedly to some extent, as far as banking credits are concerned. But broadly speaking Germany has preferred a falling exchange to the flotation of a big foreign loan. She prefers a loss of income to a loss of capital.

Such being the case, maturing credits belonging to Germany — in Scandinavia for example — are always smaller than Germany's maturing liabilities to Scandinavia. Scandinavian currencies are at premium. German banks buying Scandinavian crowns in Berlin or in Copenhagen are always in an unfavorable position. They try to buy them in all places where they are offered, spreading their demand, so to speak, over a larger area. Instead of selling all their marks in Copenhagen, Amsterdam, etc., where the demand is limited, Germans bankers sell a part of their marks in New York. There is an American demand for marks surpassing the demand for dollars wanted by Germany for American payments. It is further strengthened by the demand from South America and from the Far East. And instead of selling the Austrian crowns they have received from Austria in Vienna or Berlin, and reselling the marks exchanged against foreign currencies, they sell the crowns in New York for the benefit of the

¹ Germany could of course follow the example of France. A part of the gold reserve of the bank of France is deposited abroad, as security for operations abroad.

Austrian emigrants. They receive dollars from their sales. With these dollars they buy (cables or wireless) Dutch guilders or Scandinavian crowns to settle their balance.¹

England has tried to prevent this chain of transactions. It is to her interest as a belligerent to make payments hard to Germany. And it is to her interest as a trader to prevent New York from becoming an international market. She has striven hard to prevent the purchase of guilders and Scandinavian crowns for German account. She put pressure on the banks not to sell by wireless. She favors the use of the cable for all remittances. Through her censorship over the cable she is enabled to follow up all transactions, which greatly helps her efforts to get the control of all international payment in London.

If the Scandinavian-American and the Dutch-American relations were considered by themselves, the balance of payments would probably prove to be in favor of America. The balance of trade is very strongly so. In the last half-year before the war, Dutch imports from the United States exceeded Dutch exports to the United States by thirty-seven millions; this excess rose to eighty-four millions in the first six months of 1915; then fell to thirty millions in the first six months of the present year. But Holland is a great shipping country; she has always held a great many American securities; she has bought great blocks of such from Germany. It is quite possible that the Dutch-American balance of payments is favorable to Holland. But it is impossible that the balance of payments of the Scandinavian countries with the United States be favorable to Scandinavia. It is true that they draw a good income from

¹ Tho the yearly payments from and to Germany in New York are considerable, the daily demand for marks is small. Any exceptional transaction or even the news of an intended transaction unsettles the market.

their shipping, whose profits the war has greatly enhanced; their emigrants may send some money home; they may have bought some American securities. The balance of trade, however, is heavily against them.¹ Their exports have remained stationary or have decreased; their imports from the United States have grown by leaps and bounds. The change is partly due to the dislocation of the German trade. They have to get goods directly from the United States which they got formerly from Germany or by way of Germany. In the earlier part of the war much transit business for Germany was done.

Whatever may be the explanation, the main point is this: the monetary obligations of Scandinavia to America are far greater than the American obligations to Scandinavia. The Scandinavian crown ought to be at a discount in New York; but it is quoted at a premium. Here again the explanation is not difficult. The American demand for Scandinavian crowns is increased by the above-mentioned demand on German account. It is probably augmented too by demands on English account, for Scandinavia sends more goods to England than she ever did before; not to speak of the transit trade to Russia, and the services rendered by the Scandinavian shipping lines. Scandinavian exchange transactions in London are often merely nominal; it is possible that London prefers sometimes to settle via New York, and to draw on America's Scandinavian balances.

On the other hand the trade with Germany provides Scandinavia with the means of getting dollars. Some

¹ Excess of imports over exports for the first half-year (in million dollars):

	1914	1915	1916
Sweden	1.5	49	15
Norway	-.7	23	28
Denmark	5.8	44	25

mark bills are probably drawn by Scandinavian banks on German banks and on German traders. If the proceeds are to be used for settling Scandinavian-American debts, it may be more profitable to sell them in New York. Or the German banks sell their own marks as well as Austrian crowns in New York. Their Scandinavian customers may prefer payments in dollars to payments in Scandinavian crowns. In that case the dollar proceeds of the mark sales are credited to the Scandinavian banks, whose dollar balances they increase. It is very likely that England and Russia may make use of similar facilities, bringing about an increased demand for Scandinavian currency, or an increased supply of dollars for Scandinavia's account.¹ For a long time Scandinavian and Dutch currencies have been above par in New York.² Rates in New York are far above the gold point. It is true that the war has shifted gold points considerably. The loss of interest on gold while in transit is greater, for transportation takes longer time; shipping rates and insurance charges are higher. But a rate of 28.25 cents to the Scandinavian crown is high enough to cover all transportation risks and to leave a handsome profit on gold shipments. Why are there no such shipments? The United States are overstocked with gold, the law does not hinder exports.

¹ There are natural limits to such triangular trade. The payment of 10,000 crowns in Sweden cost Germany 15,900 marks (September 16, 1916). On that day 15,900 marks would have purchased 2,912 dollars. If the price of 10,000 Swedish crowns in New York was below 2,912 dollars (leaving cost, commission, etc., out of account) it would be cheaper to settle via New York. If the demand for dollar bills for such purposes were to increase considerably, dollars would go up. The demand for crowns in Germany would fall correspondingly, and with it the price of crowns. The original advantage would soon disappear.

*	Denmark par,	26.8c	the crown
	Rate, October 3, 1916	28.25c	" "
	Highest rate May 3, 1916	30.30	" "
	Holland par,	40.2c	the florin
	Rate, October 3 (cable)	40.4	" "
	Highest rate January 8, 1916.....	46	" "

Why cannot debtors pay their debts as cheaply as possible?

The answer is simple: England does prevent it. She has intimated to American banks that she does not favor gold shipments to Scandinavia. If the banks were to disobey her, the insurance companies would be made to refuse insurance and the regular shipping lines would refuse transport. Thus the only safe way for gold shipments is closed. It would be too hazardous to send gold owned by a Scandinavian Bank and insured by a Scandinavian insurance company in a tramp steamer across the sea. Gold is contraband and cannot be earmarked so as to retain its identity. It is scarcely likely that it would ever reach its destination; it would be detained as "suspect." Moreover, the Scandinavian banks are not willing to run any risks for getting gold. Scandinavia is overloaded with gold, the Scandinavians themselves do not suffer from the appreciation of their currencies.¹ In fact, the rise in their exchange makes payments abroad easy for them. Their exports, it is true, might be checked by the rise in the value of their currency. But they do get monopoly prices in any case for what they export under present circumstances. The real sufferers are the debtors of Scandinavia, America, Germany and even England to some degree. England has in fact tried to regulate her Scandinavian exchange by contracting a currency loan in Norway, against which her importers can draw.

The impossibility of forwarding gold to a country saturated with gold ought to act as a premium on imports into Scandinavia. Scandinavia is willing to pay

¹ The specie holdings have been:

Denmark	July 31, 1915	5.05 mill. £ gold;	July 31, 1916	8.97 mill. £ gold
Sweden	August 15, 1915	6.3 mill. £ gold;	August 12, 1916	9.2 mill. £ gold
Norway	August 15, 1915	3.4 mill. £ gold;	August 15, 1916	6.3 mill. £ gold
Netherlands ..	August 14, 1915	31.4 mill. £ gold;	August 12, 1916	49 mill. £ gold

for goods; prices are high and dollars are cheap. But here again the Allies interfere. They have restricted the neutrals by the so-called process of "rationing," which limits the quantities of American produce they may import. In this way a very curious situation has arisen. Gold and services rendered by Scandinavia to other countries (Germany included) cannot be paid by those other countries in gold. They cannot be paid freely in services and in goods. They cannot be settled by the sale of Scandinavian securities, because the amount held abroad is not large enough. Scandinavia is not rich enough to grant her customers great permanent loans. The result is that the mark, the pound sterling, and the dollar, are depreciated when measured in Scandinavian currency. The depreciation of the American dollar has been over 14 per cent. And the cause of depreciation is not that there is an excess of paper currency at home. American currency was never before so well secured by gold as it is today. Exchange is dislocated between neutral countries with a gold currency, because the ordinary methods of adjusting exchange are unavailable, and because it is not considered advisable to proceed to extraordinary means, such as the creation of a large credit for the United States in Scandinavia.

The situation of German exchange is of course somewhat different. Its main feature is that the balance of payments of Germany with all countries is unfavorable. An excess of imports over exports has to be settled, which cannot be compensated by services, by gold exports, by exports of securities, or the contraction of foreign loans. As some of the imports wanted in Germany are goods, which have to be imported regardless of cost, whilst the capacity of production for export is limited by the exigencies of the war, the automatic

settlement of the unfavorable balance by contraction of imports and expansion of exports is not feasible. A scientific study of the exchange phenomenon would gain a great deal if it started with the assumption that interrupted communications in the widest sense of the word are responsible for what has happened, and not over-issue of bank notes.¹

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¹ Half a year ago some stress would have had to be laid on the influence of a "bear" movement on German exchange. If there is a chance of a future fall in exchange, it is profitable to sell marks for future delivery. The seller does not possess the marks in question; he hopes to buy them later on at a cheaper price. He is interested in a fall in the market. This game was freely indulged in by German speculators. In New York a well-organized attempt was made by banking representatives of the Allies to participate in it. Today short sales are risky. The sale of German marks and of Austrian crowns is regulated by a committee of German and Austrian banks controlled by the Imperial Bank. Very little other material can come into the market. Moreover the handling of the foreign currencies in the hands of Germans is done in a similar way. This being the case, short sales of German currency are dangerous; the sellers might be cornered.

COMMERCIAL CONTRACTS OF THE GENOESE IN THE SYRIAN TRADE OF THE TWELFTH CENTURY

SUMMARY

Introductory: importance of Genoese commerce, 129. — Characteristics of trade with Syria, 131. — Annual or semi-annual expeditions to Syria, 132. I. The Societas, 135. — Variations based on method of forming the capital investment, 140. — Other variations, and development in the last quarter of the century, 150. — II. The Accomendatio, 152. — Variations based on division of profits, 161. — Variations based on expenses, 164. — Conditional associations, 165. — Minor variations, 166. — Conclusion, 168.

THE maritime Italian cities of the Middle Ages have played a great part in the development of modern civilization, and their importance in the economic history of Europe has long been recognized. Amalfi, Pisa, Venice and Genoa afford the best opportunities for the study of the primitive economic conditions out of which those of modern Europe have slowly developed. Among these cities, the role of Genoa has never been sufficiently disclosed. Amalfi's work was done before the others became important factors. Genoa, at first ranking below the other two, accomplished the ruin of Pisan trade in the thirteenth century, fought the great Adriatic rival for centuries with varying success, and at last out-distanced her in the search for world trade and colonial power. From the beginning excluded from territorial ambitions by a ring of hills enclosing narrowly a splendid harbor, never endowed with literary or artistic genius, — even when their wealth was proverbial, — the Genoese for eight centuries occupied

a position in marine trade of exceptional interest, even if secondary to that of the Venetians during most of the period in which the two peoples disputed the mastery of the Mediterranean. Past ages have recognized this; from the twelfth century to the Napoleonic era Genoa was autonomous, even under a long series of foreign rulers who were obliged to make concessions to her economic importance.

The commercial ambitions of the Venetians and the Genoese were identical: the control of the Mediterranean trade and the erection of colonial power in the Levant. Never were they satisfied to divide that sea between them, altho at times Genoa succeeded in her ambitions to make the northern half of the western Mediterranean a *mare clausum* to all competitors as the Adriatic was closed to her. Their methods were largely the same. The chief difference lies in this. The Venetian merchants, members of a political unit of superior organization, were forced by their political concept to subordinate their individual enterprises to the good of the republic. The Genoese merchants, members of a commune continually torn by factions as was no other Italian city in the Middle Ages, politically inapt, were by this very defect enabled to pursue their individual courses more freely. The result was apparently a higher development not only of individual enterprise, but of a collective superiority in the technique of trade, in the formation of commercial organizations in the twelfth century, in the establishment of shares in the public debt of the thirteenth, in the double entry book-keeping of the fourteenth, in insurance and banking, in the formation of joint-stock-companies.¹

¹ Cf. Sieveking, *Zur Handelsgeschichte Genues*, in *Studium Lipsiense* (Berlin, 1909), pp. 135-171, and the introduction to the same author's work, *Genueser Finanzwesen*, in *Volkswirtschaftliche Abhandlungen der Badischen Hochschulen*, erster Band, drittes Heft (Freiburg i. B. 1898).

The life of the Genoese people was trade on the sea; the records of the merchants were all-important; the care with which these records were made and preserved, enables us to study most closely among the Genoese those primitive commercial methods, associative perforce in character, which were common to all branches of the Mediterranean trade. Since their first great enterprises were of the twelfth century, and their richest trade was with Syria, it is in that special field that these methods can best be viewed.

The commercial expansion of the Genoese in the Levant was the result of their participation in the Crusades. With the First Crusade, they began a series of commercial and colonial ventures in the Levant, only the main outlines of which are clearly known. The beginnings of this economic expansion are as yet particularly hazy; but with the year 1154, the records of the Genoese notaries disclose the details of Genoese commerce in the Mediterranean, intermittently to be sure, yet regularly enough to enable us to form some idea of the general characteristics of commercial intercourse, especially with Syria, where by the middle of the century the Genoese had established commercial colonies of vital importance in the history of Syria during the Crusading epoch.¹

¹ The Genoese notaries were public officials who acted as chancellors to the consuls, podestà and doges in the successive epochs of the commune's history. They had regular posts in the business quarter, where individuals came to them to record business agreements of all sorts, wills and testaments, receipts, loans, even to have letters written by the notaries. The notaries occasionally went to the houses of prominent merchants, who there gathered their clients and associates for the formation and legal entry of a series of agreements. During the centuries of commercial activity of the Genoese in the Levant, notaries were maintained in the centers of Genoese trade and colonization there, most of whose records however have been lost. Cf. Desimoni, *Revue de l'Orient Latin*, II (1894), 1-34.

Some progress has been made in the editing of portions of the rich records of the notaries of the thirteenth century, which are more nearly continuous than those for the preceding century. See Desimoni's admirable work, *Actes Passés en 1271, 1274 et 1279 à l'Aïa (Petite Arnaâne) et à Beyrouth*, in *Archives de l'Orient Latin*, I, 434-534, and *Actes Passés à Famagouste de 1299 à 1301*, *Ibid.*, II, part II, 1-120; Arturo Ferretto,

The trade of the Genoese with Syria in the second half of the twelfth century and in the first few years of the thirteenth, was subject to risks and contingencies which led to the development of commercial customs not necessarily followed in their trade with other regions of the Mediterranean basin. By 1154, Genoese merchants are found trading freely, through most of the year, with Sardinia, Sicily, southern France, Spain, northern Africa; but the trade with the Orient, and especially with Syria, was undertaken only at regular intervals. The length and danger of the voyage, the need of a protracted stay in Syria to secure the best commercial results after so long, so hazardous and so expensive a voyage, necessitated the careful preparation of a ship, or several ships, the assembly of all the merchants engaged in the trade, of all the capital available, before a profitable venture could be assured. In times of warfare in the west, it was occasionally necessary to convoy the ships for a part of the journey, to meet them on the return that the precious cargoes should not be captured by pirates or enemies.¹ Moreover voyages could not be

Liber Magistri Salmonis, 1222-1226 (Genoa 1906); *Ferretto, Documenti Intorno alle Relazioni fra Alba e Genova*, 1141-1270, in *Biblioteca della Società Storica Subalpina*, vol. xxiii (1906) and vol. I, I. (1910); *Giacomo Gorrini, Documenti sulle Relazioni fra Voghera e Genova*, 960-1325, *Ibid.*, vol. xviii (1908); *Ferretto, Documenti Genovesi di Novi e Valle Scrivia*, 946-1260, *Ibid.*, vols. II (1909) and III (1910). The number of twelfth century documents to be found in these collections is exceedingly small. The acts of the notary Giovanni Scriba, 1154-1164, the earliest which have survived, have been poorly edited in the *Historiae Patriae Monumenta*, vol. vi, commonly referred to as *Charterum II*. Thus the twelfth century, the period in which Genoese commerce and commercial forms were assuming definite shape, has been largely neglected. In this discussion the first six years of the thirteenth century have been included, partly because they logically belong with the first period of Genoese expansion in Syria, which may be said to end with the defection of Genoese efforts from the Byzantine Empire to Syria after the Fourth Crusade; partly because the work has been interrupted by recent events in Europe.

References to the unpublished records are here made, as is customary, to the name of the notary to whom the volumes are ascribed in the *Archivio di Stato di Genova* (often erroneous, because of careless binding into volumes of hundreds of folios of various notaries), to the numbered folios, or to the unnumbered reverse, as f. 48 v.

¹ Eight galleys were sent to meet the ships returning from the Levant in 1190. *Annali Genovesi* (ed. Belgrano, Genoa, 1890, 1901), II, 77.

undertaken every year. Warfare, civic discord, imperial ambitions in Lombardy, economic distress resulting from disastrous fires, pestilence, commercial losses at sea, often prevented the merchants from going to the Levant.¹ Between 1154 and 1164, it can be said with assurance that only five commercial ventures to Syria were made; between 1177 and 1206, only fifteen years can be cited in which voyages were certainly undertaken.

The ships usually departed from Genoa in the fall, near Michaelmas (September 24), only occasionally in October; the aim was to reach Syria for the feast of Christmas.² The voyage was usually direct, except for

¹ Apparently in years of warfare foreign trade was sometimes forbidden: "Si hoc anno (1159) licuerit ianuensibus ire laboratum," Ch. II, 787. Cf. Goldschmidt, *Handbuch des Handelrechts* (Stuttgart, 1891), p. 266, note 113. In 1154 a disastrous fire occurred in Genoa, and a richly laden ship returning from the Levant was lost at sea (Ann. Gen., I, 39); in the years 1155, 1159, 1162, Barbarossa's activity in Lombardy disturbed the Genoese profoundly (*Ibid.*, I, 38-39, 53-54, 64, ff.); for these four years Scribe's acts show no records of Syrian voyages. The notaries' acts for the years 1165 to 1178 are lost. Genoa was shaken by civil strife in 1180, and in 1181 a severe pestilence raged, followed by a fire which destroyed one entire section of the city (*Ibid.*, II, 15-16), and again no contracts for Syria are found. A civil war in 1183 between the factions of the Venti and the de Castelli (*Ibid.*, p. 19), families long active in the Syrian trade, may explain the failure to send out a venture in that year. It is practically certain that no commercial voyages were made in the years 1187, 1188 and 1189; the Genoese interests in Syria suffered greatly under Saladin's successes (Cf. Heyd, *Coloniae Commercialis degli Italiani in Oriente* (Turin, 1866), I, 196, ff.) while these were also years of serious strife in Genoa (Ann. Gen., II, 24 ff.). Many ships laden with pilgrims and crusaders, including representatives of the leading families of Genoa, left the harbor for Syria in 1189 for the Crusade (*Ibid.*, pp. 30-33), but the notaries' acts disclose no commercial contracts for trade in Syria. The years 1193-1196 were very troubled, and again no contracts are found; the civil strife of 1193 and 1194 culminated in the overthrow of the consulate and the establishment of the first podestà; in 1194 the Emperor Henry VI came to Genoa and in August a great Genoese fleet sailed under his direction for the conquest of Sicily from which the Genoese expected great returns. *Ibid.*, pp. 43 ff. Maritime warfare with Pisa filled the years 1195-1196. *Ibid.*, 54 ff., 60 ff. The summer of 1199 was one of war with Ventimiglia which continued throughout September (*Ibid.*, p. 78), and again no contracts are found. In October, 1204 a violent storm destroyed many ships in the harbor, at least one of which was preparing to go to Syria (*Ibid.*, p. 92), and the notaries' records contain no Syrian contracts.

The fragmentary character of many of the notaries' books may explain why no records exist in these years; further search may disclose contracts for such years; the fact remains that for the decade 1154-1164 voyages can only be said to have taken place in the years 1156, 1157, 1158, 1160, and 1164; for the period 1179-1206, in the years 1179, 1182, 1184, 1186, 1190, 1191, 1192, 1197, 1198, 1200, 1201, 1202, 1203, 1205 and 1206.

² The date of departure can be fixed fairly well by the dates of the last contracts made before the notaries for trade in Syria. They are as follows for the years 1154-1164:

the possibility of a pause in Sardinia or Sicily. The merchants remained in Syria through the winter, probably until after Easter and returned to Genoa in May or June,¹ not always directly; stops at Alexandria, Sicily or Bougia and even at Ceuta were not unknown.² Four times, in 1191, 1202, 1205 and 1206, a voyage was made to Syria in the spring, but only in the first of these years were two ventures equipped; the merchants setting forth on their spring voyages were expected to return to Genoa the following autumn.³

1156, September 2, Ch. II, 359; 1157, August 28, *Ibid.*, 487; 1158, August 23, *Ibid.*, 677; 1160, August 27, *Ibid.*, 963; 1161, September 8, *Ibid.*, 1115; 1164, August 19, *Ibid.*, 1504. The dates of the last contracts before the autumn sailings after 1178 are: 1179, September 4, *Notari Ignoti* f. 21; 1182, September (16?), *Not. Lanfranco*, *registro* I, f. 1 v.; 1184, September 12, *Not. Lanfr.*, *reg. I*, f. 143 v.; 1186, September 24, *Not. Lanfr.*, *reg. I*, f. 96; 1190, August 19, *Ibid.*, f. 59; 1191, September 26, *Not. Guglielmo Cassinense*, f. 60; 1192, September 19, *Not. Lanfr.*, *reg. II*, part II, f. 24; 1197, September 11, *Not. Ign.*, f. 87 v.; 1198, October 30, *Not. Gugl. Cass.*, f. 118 v.; 1200, September 24, *Not. Ign.*, f. 164; 1201, October 7, *Not. Ign.*, f. 209; 1203, September 23, *Not. Gugl. Cass.*, f. 226. It will be noted that the date of departure in the later period is usually somewhat later than in the decade 1154-1164, due no doubt to improved ships, greater knowledge of the routes, or increased skill in sailing.

¹ Receipts made before the notaries for money or goods brought from Syria, are curiously few and are dated as early as May one year, as late as the second week in July in another. Ch. II, 1062, 1273, 1274, 1406, 1421. Bishop Ralph of Liège, returning from Palestine greatly in debt, with a large suite, contracted a heavy loan in Genoa on June 21, 1191. *Not. Gugl. Cass.*, f. 38. A contract drawn on November 2, 1159, for trade in the west and then in Syria over a period of two and a half years, provided for liquidation two years from the following St. John's day, (June 24). Ch. II, 792. A contract of May 25, 1191, mentions the approaching arrival of the merchants from Syria, of the next arrival about the feast of St. Andrew (November 30); of still another arrival around Pentecost, 1192 (May 18). *Not. Gugl. Cass.*, f. 32.

² Ch. II, 352, 358, 1202; *Not. Lanfr.*, *reg. I*, f. 96; *Not. Gugl. Cass.*, ff. 55 v., 58, 218, 267. On the eastward voyage calls at Sardinia and Sicily were more common, where cargoes were taken on, where Genoese merchants came aboard, having left Genoa in time to transact business in these places before going east. Ch. II, 907; *ibid.*, ff. 23 v., 36, 36 v., 37 v., 60, 242, 252 v., 261.

³ *Ante*, note 1. The first spring voyage of which record has been found was that of 1191; it was comparatively light, and may have been the aftermath of the autumn sailing of the year before, which took place earlier than usual with Richard the Lion-Hearted on the Third Crusade. *Ante*, p. 132, n. 2; *Ann. Gen.*, II, 35-36. 1190-1191 were years of great activity in the Syrian trade following the restoration of the Christian power in Syria; contracts exist for every month in 1191 from January to September. *Not. Gugl. Cass.*, ff. 4-60. The voyage of the spring of 1202 was light. *Not. Ign.*, ff. 232, 233, 237, 238. The great venture of the spring of 1205 followed the destruction of the ships in the storm of the previous autumn and the defection of Genoese Byzantine trade to Syria. *Not. Gugl. Cass.*, ff. 242-273, 293 v. No records were found for an autumn voyage in 1206; the venture of the next spring follows naturally therefore. *Ibid.*, ff. 292 v., 293, 293 v., 303.

In the five ventures made between 1155 and 1164 one ship probably sufficed to carry the merchants to the east, to carry them and their wares westward to Genoa again.¹ The largest venture of the whole period from 1155 to 1206 was organized in the spring of 1205, after the loss of the Byzantine markets to the Genoese increased their activity in Syria; about one hundred and thirty contracts were found in Genoa for trade in Syria just previous to the departure of the venture; at least three ships were required for the merchants, who numbered nearly a hundred;² there may have been more than three, since the next largest expedition, that of the autumn of 1203, which involved only half as many contracts, was composed of four ships, one of which may have gone to Alexandria only.³ The ships were owned

¹ Heyd, *Histoire du Commerce du Levant au Moyen Âge* (Leipzg, 1885), I, 180. speaks loosely of caravans; fleets engaged in the Syrian commerce in this period; followed by Schaub, *Handelsgeschichte der Romanischen Völker des Mittelmeergebiets*, (Munich, 1906) p. 154. The examples cited by Heyd are of the thirteenth century; the term itself is not used in Genoese records of the twelfth century and it is practically certain that no purely commercial fleets went east from Genoa before 1203. In 1156, we can be certain only that two merchants went directly to Syria, (Ch. II, 354, 359), altho several went to Alexandria (*Ibid.*, 332, 337, 339, 342, 343, 344). Others made arrangements to go to Sicily and then where they pleased, which might have been to Syria (*Ibid.*, 332, 338). In 1157, at least ten merchants set out for Syria (*Ibid.*, 414, 419, 424, 426, 441, 457, 468, 472, 484, 487). In 1158, eight merchants departed (*Ibid.*, 617, 619, 681, 683, 684, 685, 672, 677); document 661, provides for payment "in proxima estate navi Ribaldi Cenoli sana eunte ultra mare et redeunte" or "sana eunte illa navi qua ire copero et redeunte," or "sana veniente ea (navia) qua venerit maior pars hominum Ianue"; these expressions seem to imply the expectation that only one ship will go and return. In 1160, four merchants undoubtedly went to Syria (*Ibid.*, 975, 955, 957, 963); nine merchants departed in 1161 (*Ibid.*, 1080, 1082, 1102, 1104, 1106, 1107, 1108, 1110, 1113); others made contracts at about the same time for trade "quo velit," "quo mihi melius videbitur," who may have gone to Syria, altho it is doubtful if at this period this would be customary (*Ibid.*, 964, 965, etc.). Only four merchants of whom we can be certain went to Syria in 1164 (*Ibid.*, 1470, 1473, 1490, 1504). That the same boat going first to Syria carried the merchants bound for Alexandria is not at all impossible in this period when the number of merchants going to Syria was so few; the contracts for trade in Alexandria were drawn in the same period each year in which those for Syria were made; in 1161, a merchant was instructed to go to Syria, then as quickly as he could ("et inde quam cito poterit") to Alexandria; it is possible that the same vessel would carry him there. Ch. II, 1202. In the period after 1178, the trade demanded a fleet only twice: the autumn venture of 1203 included four ships (Not. Gugl. Cass., ff. 208, 218 v., 219 v., 222 v.) and that in the spring of 1205 included at least three (*Ibid.*, ff. 243 v., 261, 273; Ann. Gen., II, 97).

² Not. Gugl. Cass., ff. 242-273, 293 v.

³ *Ibid.*, ff. 208, 218 v., 219 v., 222 v.

by individual merchants, or by groups of commercial associates; shares in the ownership of vessels were frequently the subject of business transactions; they were bought and sold or pledged as security, like other commercial commodities.¹

In the weeks preceding the departure of the ships to Syria, this trade was the dominant interest in the commercial life of the city; the last days before the sailing were almost entirely given over to the Syrian trade. Before the departure of great ventures, as in 1203 and 1205, certain notaries devoted all or most of their time for a few days to the merchants engaged in this commerce, who thronged before them with creditors, guarantors, business associates, guardians of minors, and witnesses, to register their contracts with one another in due legal form.

I. THE SOCIETAS

The precarious conditions under which maritime commerce was conducted in the twelfth century, the dangers to be encountered through piracy, the losses so constantly incurred by the attacks of commercial rivals in the more or less continuous warfare among the maritime cities of the western Mediterranean, prevented individuals of means from engaging in trade over-seas solely on their own capital and initiative. The result was the development of associations and partnerships of various sorts, which divided the risk and at the same time allowed the use of a greater amount of capital; thereby the opportunities for profits were greatly increased. The association used by the Genoese most generally in foreign trade in the early twelfth century

¹ Ch. II, 661; Not. Gugl. Cass., ff. 9, 25, 36, 48 v., 255, 265, 273; Not. Lanfr., reg. I, ff. 59, 93 v., 142.

— was that known as the *societas* or *societas maris* to distinguish it from the similar association in use within Genoa or between Genoa and inland towns.¹ The *societas* was the dominant form of association in the Syrian trade from the beginning to the point when the trade was well established, about 1175. The *societas* in its simplest form was a partnership between two individuals in which one partner, the *socius stans*, furnished two-thirds of the capital and remained in Genoa; the other partner, the *socius tractans*, or *portitor*, supplied one-third of the capital and carried the whole investment to Syria. For the sake of simplicity, altho the terms are not technically exact, we may designate the first associate as the investor, the second as the factor.² The factor operating under the terms of his contract, which might or might not limit his activities in the use of the investment, as will be shown later, carried the capital in goods or money, on one of the ships going from Genoa to Syria, paid his expenses out of the sum entrusted to him, turned it over as opportunity offered after his arrival in Syria, or even in Sardinia or in Sicily, if the ship first made port in one of these islands, and if his contract allowed; he brought the proceeds in goods or in money to Genoa after completing his transactions and placed them in the hands of the investor, under whose direction, with the assistance of the factor, the

¹ For the literature on the *societas* in general, see Goldschmidt, *op. cit.*, p. 254, ff., and Schaeube, *op. cit.*, p. 110, ff. Goldschmidt's brief treatment of the *societas* in Genoese trade is based on the acts of the notary Giovanni Scribe solely and is subject to criticism in the light of unpublished material. Lastig, *Die Accomendatio; die Grundform der heutigen Kommanditgesellschaften in ihrer Gestaltung vom XIII bis XIX Jahrhundert* (Halle, 1907), touches briefly upon the *societas* in Genoese commerce, p. 90 ff. Goldschmidt fails to distinguish clearly between the *societas* and the *acomendatio*, while Lastig, owing likewise to unfamiliarity with the unprinted material, does not appreciate the importance of the *societas* in the development of the *acomendatio*; however, his admirable short discussion covers the period to the nineteenth century.

² In the Genoese records of the twelfth century, the associates are indifferently spoken of as *socii*. In one contract the term *portitor* is applied to the factor. Ch. II, 1450.

capital and profit remained for disposition. When the goods had been sold in Genoa or sent elsewhere for sale, a clearance was made and the profits equally divided. This, the simplest form of *societas*, was made for a single voyage to Syria and return. It was undoubtedly the oldest form of association used by the Genoese for foreign commerce in general and especially for the trade with Syria in the first period of their commercial expansion, the first half of the twelfth century. When the records of the notaries disclose the trade to us, in 1154, the *societas*, as used for the Syrian trade, has undergone considerable development in many directions, so that the primitive form has given way to more complicated contracts based on these same general features; the simple *societas* as outlined above is found only occasionally.¹ In the decade 1154 to 1164, the first period covered by notarial records, altho the *societas* is the form of association used to all but complete exclusion of the forms prevalent later, several significant variations in its use have been introduced.

By the middle of the century a certain degree of stability in the Syrian trade had been achieved; the principal centers of trade in Syria were in the hands of the Crusaders; the Genoese were established in Syria as colonists; commercial conditions within Syria were fairly well understood by certain Genoese merchants. A few therefore felt so assured of the continued prosperity of their commercial relations with Syria as to form *societates*, not for a single voyage alone, but for trade over a period of years, or for a succession of voyages. Thus in August 1158, Willielmus Buronus, one of the wealthiest citizens, formerly consul, formed a *societas* with Rogerius de Justa for trade in Syria over

¹ Ch. II, 468 (1157), 673 (1158), 1107 (1161); Not. Lanfr., reg. I, f. 95 (1186); Ibid., ff. 59, 91 v., (1190); Not. Gugl. Cass., ff. 35, 52, 55 v., (1191); Ibid., ff. 209, 218 (1203); Ibid., f. 263 (1205).

a period of three years.¹ Apparently Rogerius left Genoa with the investment, one-third of which was his own, traded in Syria, and then possibly elsewhere; he did not return to Genoa until near the end of the period for which he had made the contract.² Willielmus Filardus, one of the most energetic merchants of the period, heavily interested in the Oriental trade in general, formed a *societas* with Ugo Mallonus in November 1159,³ a year in which no ships went to Syria from Genoa as far as we know, for a period of two and one-half years. Ugo contributed one-third of the capital; his son, Rubaldus, was appointed to take the investment to Provence, then to Genoa, Sicily, Alexandria or Syria, on one or several voyages. These are the only contracts we have of *societates* for Syrian trade specifically drawn for more than one voyage. It is to be noted that in both instances the contracts are made by men of great wealth, with wide experience as investors in the Syrian trade, men to whom the loss of their capital would not be disastrous, who would be able to direct their factors toward favorable opportunities for trade.⁴ There are records of other *societates* which continued in operation for several years; whether they were originally formed with that intention we cannot say. Ingo de Volta and Ingo Nocentius formed a *societas* sometime previous to September, 1156; a part of the capital was sent to Syria in that year. In June, 1157, the *societas* was still in operation; the original investment of 300 *l.* had been increased to 810 *l.*; Nocentius went to Syria in the autumn of 1160, apparently under

¹ Ch. II, 668.

² His name does not occur as principal or witness in Genoese records between August 22, 1158 and September 17, 1161. *Ibid.*, 668, 1136.

³ *Ibid.*, 702.

⁴ The names of Buronus and Filardus occur more frequently than any others in the documents of 1154-1164. See Ch. II, *passim*.

the same *societas*, when the working capital had been increased to about 1100 *l.* This *societas*, in operation for nearly six years, was presumably closed on the return of Nocentius sometime late in 1162.¹ At least two trips to Syria had been made and the merchants were in the meantime distributing their wares in the West. It may be supposed that a part of the profits was occasionally withdrawn by mutual consent. No other example of so highly developed a form is found. Obertus de Sauri, in *societas* with Willielmus de Sauri, went to Syria in 1157 in the interests of their association previously formed.² In the year 1158, Willielmus Buronus, mentioned above as familiar with Syrian trade, is found to have a *societas* with Ido Mallonus; Mallonus had already made a voyage to Constantinople in 1156 as a factor for Buronus, and undertook a journey to Syria in 1158 in the name of their *societas*; in the interim he may have gone to Bougia. This *societas* apparently continued in action until 1161, when the two men formed a new one to sell Oriental wares in France.³ Between 1161 and 1164 Baldezus Ususmaris and Obertus Lucensis were associated for trade in a series of voyages, at least one of which led to Syria.⁴ In the years between 1179 and 1206, when the *societas* had been displaced by another form of association, there are only two examples approaching those cited; both however are rather augmentations of the capital of *societates* originally formed for trade in the West, deflected to Syria in 1191 by the prosperity of the business between Genoa and Syria in that year and the next.⁵ It is clear that during the earlier

¹ Ch. II, 359, 424, 955. The name of Ingo Nocentius is not found in the records after August 26, 1160 (*Ibid.*, 955) until February 28, 1163 (*Ibid.*, 1240).

² *Ibid.*, 487. This *societas* in August, 1157, possessed a stock of Oriental wares which suggests an earlier voyage to Syria.

³ *Ibid.*, 619, 1115. For Ido's voyage to Constantinople, see *ibid.*, 329.

⁴ *Ibid.*, 957. 1473. ⁵ *Not. Gugl. Cass.*, ff. 46, 58.

epoch, 1154 to 1164, this form of *societas* was not only not uncommon, but profitable and safe among the more experienced merchants. Unfortunately the records do not allow us to trace its development or decline; when we can once more pick up the threads in 1179 this variety of the *societas* has almost disappeared. It was peculiarly adaptable to the Syrian trade in the decade 1154-1164, when a few families were in control of the larger part of the trade with Syria.¹

The most striking variations from the primitive form of *societas* found in the Syrian commerce, are based upon variations in the methods of forming the capital investment. They fall into four main groups: (1) *societates* of several partners; (2) *societates* in which the factor is authorized to carry money or goods of his own, outside of his customary one-third of the capital of the *societas* proper; (3) *societates* in which the investor sends an additional sum, outside of the usual two-thirds; (4) *societates* in which the factor carries capital for persons quite outside the *societas*, either with or without additional capital placed by his original partner or by the factor himself.

(1) In the *societas* of several associates, in the decade 1154 to 1164, there are never more than three contracting parties, two investors, or *socii stantes*, and one factor. Each contributes one-third of the capital; the factor carries the entire investment; returning to Genoa he places capital and profit in the hands of the investors or of one of them; at the division, the profit is divided into two equal parts, of which the factor receives one, each of the investors his share of the balance.² Altho only two examples of this *societas* are found in this

¹ Five families controlled the large bulk of this trade between 1154-1164, the Venti, delle Volte, Buroni, Filardi and Malloni.

² *Societates of several partners*, 1154-1165: Ch. II, 359, 677, 1082, 1102.

decade in which the three associates appear before the notary to register the agreement, both in 1161,¹ there are two others, in which the identical arrangement is made, except that the investor formally acknowledges that half of his investment belongs to a third party, who does not appear, but with whom the investor has made an agreement. In 1156, Ingo Nocentius formed a *societas* with one Alvernacius,² the owner of a ship about to go to Syria;³ Nocentius contributed two-thirds of the capital but stated that half of his share belonged to Ingo de Volta with whom we have seen he was associated in trade for several years. The other instance is more interesting. For the voyage in the autumn of 1158, Pascalis Defantis with his father's authority carried to Syria for Willielmus Filardus, 105 lire, 5 soldi in merchandise; of this, Filardus acknowledged that 52 *l.* belonged to his nephew Ansaldinus, a minor no doubt.⁴ Pascalis was directed to sell the goods in Syria; then according to what money of his own he could there command, he should take a half or a third of the proceeds of the sale, add thereto of his own property "cum testibus," *i. e.*, before a notary,⁵ and trade with the proceeds. On the return, the profits were to be equally divided between the younger Defantis and Filardus, who received his nephew's share. Perhaps Defantis had merchandise to sell, of the result he was doubtful; or he and his father may have utilized the time intervening between the formation of this contract and the departure of the vessel, to raise money in Genoa; of the status of the Defantes we know nothing except that at the moment they were unable to furnish 52 *l.* for their share

¹ Ch. II, 1082, 1102.

² Ibid., 345.

³ Ibid., 350.

⁴ Ibid., 677.

⁵ The Genoese maintained notaries in Syria throughout most of their period of activity there. Desimoni, *Revue de l'Orient Latin*, II, pp. 4-5.

in the *societas*, nor did they expect to be able to furnish more than a fraction of this amount in Syria. Indeed it is significant that in each one of these instances, the factor was a man of small means, of little importance in Genoa, or one whose family name is not even given.¹ This suggests unwillingness on the part of the investor to assume more than one-third of the risk, when the factor was not of excellent standing. Alvernacius is the only exception; he owned the vessel on which he was going, while in that instance the associates were Ingo Nocentius and his partner de Volta, men well able to assume any risk, placing their money wherever opportunity offered.

In the later period under review, it was this *societas* of several partners which prevailed over all other forms of the *societas*, but for reasons other than those which seem to explain the use of it between 1154 and 1164.² Four were *societates* in which the major part of the capital was contributed by the same family. In 1203 Lanfrancus Gallus formed a *societas* to which he contributed 100 *l.*; his widowed sister, Agnesia, gave the same amount out of her patrimony; she and the co-guardians of her children's inheritance supplied 100 *l.* of that inheritance. On the return, Lanfrancus was directed to turn all the proceeds over to Agnesia, and at the division, Lanfrancus should receive one-half of the profits, Agnesia, one-fourth, and her children one-fourth.³ This is a fair example of these four associations. Two other contracts, somewhat different from the above, and exactly alike in every respect, were made in

¹ "Alvernacius," Ch. II, 359; "Pascalis Defantia," *Ibid.*, 677; "Ansaldus," *Ibid.*, 1082; "Ugo de Papia," *Ibid.*, 1102, only once again encountered, as a witness in 1164, *Ibid.*, 1475.

² *Societates of several partners:* Not. Gugl. Caas., f. 52 v. (1191); ff. 215, 223 (1203); ff. 243 v., 245 v., 267, 270 (1205).

³ *Ibid.*, f. 223.

1203 and 1205; the four partners are the same, their respective investments are the same in both years. The factor contributed 200 *l.*, a blood-relative 100 *l.*; a third partner 200 *l.*, a fourth partner 100 *l.*¹ Two members of the same family therefore owned half the capital; the four were men of considerable means, and closely associated in business for several years. Still another similar contract was drawn in 1205 by two members of the same family with a factor, each contributing one-third of the total, 405 *l.* Altho the factor was a responsible man, as shown by the amount he was able to invest and by his name, the risk was greater than usual, since this is one of several cases in which the factor was allowed to carry or send the investments to Aleppo, the only one found thus far in which he was permitted to go to Damascus, and one of a very few in which he was allowed to proceed to Bougia or Ceuta before returning to Genoa.² Only one *societas* of several partners has been found in which the family arrangement was not evident; in 1191 a partnership was made between three men, each of whom contributed 44 *l.*³ In all these contracts, the factor supplied one-third of the capital. It is significant that in every case but one, at least two of the associates are of the same family, and own at least half the investment. The risk is unusual in only one *societas*, and even in that the family element is dominant.

The chief difference between the *societas* of several partners as practised in the middle of the century and toward the close lies in the reasons prompting their formation. In the earlier period, 1154 to 1164, the divided risk seems to explain the use of this form. In the later period, 1179 to 1206, while the element of risk

¹ Not. Gugl. Cass., ff. 215, 245 v.

² Ibid., f. 267. The partners are of the families de Mari and de Castello.

³ Ibid., f. 52 v.

is not wholly negligible, the *societas* of several partners is not only the principal form of *societas* surviving, but it is mainly used for family combinations of capital in fairly large sums; brothers, widows, minors, of the same family throw their interests into one for greater convenience and possibly for greater advantages in profit.

(2) Frequently the factor, in addition to his investment of one-third in the *societas*, was able to carry with him a smaller sum of money, or amount of merchandise from his private property.¹ This circumstance was taken into consideration in the formation of the contract; and we may say that it was always there stated. The sum so carried seldom amounted to more than a few lire, in only two cases to more than 10 per cent of the total investment. In such cases, the contract was drawn in regular form; the factor received his usual one-half of the profits on the *societas* proper. Then followed the provisions with reference to the *super societatem* or *ultra societatem* as it is called in the documents. The factor was allowed all the profits on a sum so carried, but this sum must bear expenses per lira with those incurred by the *societas*. In other words he was not allowed to make gains at the expense of the *societas*; the investor was willing that the factor should carry money or goods in small amounts in this fashion, but insisted on an advantage to himself therefrom, — the reduction of the expenses per lira, and the resultant increase in the profits per lira. There is only one instance in which the amount carried by the factor in addition to the capital proper exceeded 30 or 40 lire. In 1161 Wil- lielmus Buronus allowed Ido Mallonus to carry 132 lire outside of their capital of 600 lire.² The close business relations between these great houses made this arrange-

¹ Ch. II, 354, 664, 672, 1106, 1113, 1115; Not. Gugl. Cass., f. 55 v.; Not. Ign., f. 87 v.

² Ch. II, 1115.

ment allowable, and of distinct advantage to both. At the moment Buronus may not have been able to invest an additional 264 *l.* to offset the sum which Mallonus had at his disposal. Presumably, the factor was allowed to employ this sum in common with that of the *societas*, thereby reaping to the full the advantages of trade, since in only one instance was he directed to bring it back separately invested from the *societas*, and then at his own risk.¹ This form of *societas*, fairly common between 1154 and 1164, is only twice encountered in the later period.

(3) Opposed to the contracts just reviewed, are those entered into by factors unable to produce capital equal to one-half of that at the disposal of the investor. An arrangement was then made enabling the investor to entrust his additional capital to the factor. Again the contract would be drawn in the regular form, the factor contributing as much as he could, the investor doubling this amount, the profits to be divided equally. By special provision the investor gave his surplus to the factor who agreed to carry it with the regular investment; expenses and profits were to be reckoned per lira, but the factor received at the division, one-fourth of the profits. This was a perfectly logical outgrowth of the simple *societas*: therein the factor furnished one-third of the investment, gave his time and labor, and received one-half the profits; thus when he took a sum from his associate, against which he was unable to place any money, he gave his time and labor and received one-fourth of the gain. Only a few instances of this are found in the decade 1154-1164. The variations in detail are interesting. In 1157 Jordanus de Domo, a factor, was able to invest only 15 *l.* in *societas* with Bonus Vasallus Caput Galli; the latter, aside from the

¹ *Not. Ign.*, f. 87 v.

30 *l.* which he placed in the *societas*, sent 103 *l.* with *Jordanus*, more than twice the amount of the entire *societas*, at a time when 100 *l.* was a considerable amount.¹ The next year we find a *societas* of 207 *l.* aside from which the investor was able to send so small an amount as 23 *lire*, 9 *soldi*, of a *societas* he had with another merchant.² Still more at variance with the normal arrangement is a contract of 1164; *Michel*, indentured [?] to *Stabilis*, entered into a *societas* with his master; he could furnish only 12 *l.* against his master's 24 *l.* but agreed to carry the whole amount to *Syria* for one-half the profits, under the disadvantage of no allowance for food and clothing (*expense victus vel vestibus*), because he also carried for *Stabilis* the handsome sum of 245 *l.* on which all expenses were allowed. The profits won on the 245 *l.* were not to be shared by the factor; his advantage lay in the great reduction in the expenses of his own investment per *lira*, which was so small that it was doubtful if he could place it to such advantage elsewhere.³ Still another variation follows in 1164: *Suplicius*, in order to furnish 40 *lire*, one-third of a *societas* of 120 *l.* with *Blancardus*, was obliged to borrow 6½ *l.* of the latter, under the expectation of being able to return it from a sum due him before a year had elapsed. *Blancardus* loaned him the sum without stipulating interest; the customary contract for one-half profits was made; *Blancardus* then entrusted 140 *l.* to *Suplicius*, who agreed to carry it on condition that one-fourth of the profits should be turned into the profits of the *societas* before the division thereof.⁴ He lost the advantage of one-eighth of the

¹ Ch. II., 484.

² Ibid., 663.

³ Ibid., 1470.

⁴ Ibid., 1499. Goldschmidt, op. cit., p. 263, has noted this peculiar provision in *Genoa* and *Marseilles*, but views it in error, as far as the *Genoese* practice is concerned, as an attempt to secure a growing capital-account. It is true that this is the natural conclusion at first glance but he fails to take into consideration the fact that the *societas* in which this provision occurs were formed for a single voyage.

profits on the 140 *l.*, yet he was enabled to secure the advance necessary to make a desirable contract for trade. In all these cases the problem is simple: a factor in association with a merchant capable of doubling the factor's investment several fold.¹ The arrangement was profitable to both contracting parties.

(4) That the trade in Syria constantly demanded more investment than the factors who went east were able to supply at the ratio of 1:2, and that there was ample money in Genoa for this purpose, is clearly evident from the foregoing. Another form of *societas* makes this still more evident, that in which the factor was allowed by his partner to carry sums of money for others, entirely outside of their own agreement. Ogerius Aguxinus, about to depart for Syria in 1157 received permission from his partner, Petrus Eustachius, to carry with him what he wished, provided he registered the sums with Eustachius before his departure from Genoa.² We are unable to say what use Aguxinus made of this license, but in 1161, Otavianus, factor for (the same?) Eustachius, contracted to go to Syria in *societas*; he registered 15 *l.* entrusted by one woman, 20 *l.*, by another, and 15½ from an unaccountable source; profits were to be reckoned per lira; one-fourth of the profits on the three sums carried *super societatem* was to be converted to the profit of the *societas*; at the final division of the profits the usual arrangement of equal shares was to be followed.³

The tendency so well marked in the ten years from 1154 to 1164, for the factor to gather up loose sums wherever possible to be carried *super societatem*, was the rule in the period after 1179. Scarcely a *societas*

¹ Other examples of this group: Ch. II, 1104; Not. Lanfr., reg. I, f. 143 v., (1184); Ibid., ff. 95, 96, (1186); Not. Gugl. Cass., ff. 13 v., 17, 53, 58 (1191); Not. Ign., f. 168 (1200); Not. Gugl. Cass., f. 218 (1208); ff. 243, 265 (1208).

² Ch. II, 441.

³ Ibid., 1104.

was formed in that period in which the factor did not register one or several sums so carried; as many as five were occasionally recorded in a single contract, contributed by the investor and others, in amounts varying from 4 lire to 200 lire.¹ In this period, the rule was that the one-fourth profit invariably allowed on sums carried outside the regular investment of the *societas* should be converted into the profits of the *societas* before the division into two equal parts between the factor and the principal. The natural deduction is that as the factors utilized this privilege to increase their private profits, and as the practice grew, the investors felt obliged to restrict the amount of the profit made partly at their expense by the factors. In this later period the sums carried by the factors *super societatem* even if supplied by the investors, were subject to the same provision. Occasionally the provision is omitted, whether by inadvertence or with the understanding that it was to be enforced, we cannot say.² All sums carried *super societatem*, unless it was otherwise stipulated, bore expenses and profits per lira with the whole amount carried.

The advantages of this form of investment to men and women of small means are evident; nor was it without advantage to the *societas* proper, the profits of which were accordingly increased. This is further evidenced by the fact that in the majority of cases the money or goods carried *super societatem*, were employed in common with that of the *societas*. Only occasionally was it stipulated that separate investment was to be made.³ The fact is that the *super societatem* had become so fixed a feature of the Syrian trade, as no

¹ For example, Not. Gugl. Cass., f. 53.

² For example, *ibid.*, f. 53.

³ *Ibid.*, f. 53; Not. Lanfr., reg. I, f. 143 v.

doubt of Genoese trade in other parts, that it had already been assuming a special form and name, that known as the *acomendatio*, of which much will be said later.

Aside from the four main variations of the *societas* described above, several less important forms are found. Most exceptional are the *societates* in which there is more than one factor. Only one indubitable example can be cited. It is a *societas* formed in 1205, with a small capital of 30 lire. The two factors are brothers, about to go to Syria, able to supply of their combined resources 10 lire!¹ Ugo Mallonus in partnership with Willielmus Filardus, in 1157, did not go abroad, but sent his sons, one to Syria with two-thirds of the capital, another to Sicily.² The *societas* between Ingo de Volta and Ingo Nocentius, described above as one in operation for several years between 1156 and 1161 offers an interesting variation in connection with this point. Nocentius formed a *societas* in 1156 with Alvernacius, using part of the capital of his association with de Volta; Alvernacius went to Syria therewith; Nocentius went abroad, possibly to Syria, in 1157 for the *societas* and was absent from Genoa a year; in 1160 he not only went to Syria again, but mentioned in a contract three men who were working as factors for him: Alvernacius who went to Syria in 1156 and apparently did not return long before September 1161; Lavorantis who went to Syria in 1157; and Guidotus Torsellus who was in Genoa intermittently during these years, may have gone to Syria, and certainly went to Provence in 1157.³ This particular *societas* is exceptional in so many ways that it is perhaps not a fair type; still it illustrates the use of several factors under the direction of the princi-

¹ Not. Lanfr., reg. I, f. 270.

² Ch. II, 457.

³ See ante, p. 139, n. 1; also Ch. II, 447, 472, 680.

pal, or in conjunction with him. In 1190 a contract was formed between two merchants, one of whom carried a part of the capital to Syria while the other went abroad where he pleased with the balance.¹ This is entirely exceptional in the Syrian trade.

In the last years of the twelfth century a series of societas were formed for the Syrian trade in which the stipulation was made that expenses of operation were not to be allowed. Previous to 1190 only one such societas was found; it has already been described above and has no resemblance to this group.² There were eight *societas sine expensis* formed between 1190 and 1205. In six³ of these the amounts involved were singularly insignificant, as low as $4\frac{1}{2}$ lire in one case; the factors and investors were men of small means, whose family names tell us nothing; in two cases of these six, the factor and investor were brothers. It seems probable that these were all contracts made by common seamen about to go to Syria on one of the merchant ships, eager to clear a small profit on what ready money they had during the delay in Syria.⁴ It was the custom in the Syrian expeditions to pay the mariners one-half their contracted wage before departure; unfortunately the contracts for the hire of mariners could not be found for this voyage. The remaining two instances involved more considerable sums; one was drawn between two brothers, which may explain the unusual provision.⁵ The other contract allowed expenses on the societas proper, 75 *l.*, but not on the super societatem belonging

¹ Not. Lanfr. reg. I, f. 93 v.

² See ante, p. 146.

³ Not. Lanfr., reg. I, f. 59; Not. Gugl. Cass., ff. 200, 208 v., 223 v., 266 v., 270.

⁴ One case is of this character unquestionably; the factor promises to contribute 5 lire or 16 bes. Syrian, "quas debeo habere pro conductu." Not. Lanfr., reg. I, f. 59.

⁵ Not. Ign. f. 161. The photograph of this document has not yet been received; it is singular in other ways which cannot be explained until the photograph has been studied.

to the investor, in amount 80 *l.*; it was not a bad bargain therefore for the factor altho unusual.¹

Only one *societas* has been found in which expenses were advanced outside of the capital proper.² In 1190 Simon de Minuta formed a *societas* with a widow, Boneta Bancheria; she contributed 66 *l.* partly in merchandise, partly represented by her shares in the ownership of the vessel on which Simon was to sail. Simon supplied 33 *l.* to the association. The profits were to be divided equally. Boneta gave him 93 *l.* toward the expenses of equipping the vessel and sending it to Syria. If there was a residuum, above her share of the expenses, he was directed to invest it in their *societas* and in that which Simon had with another investor.³ On what terms this was to be done, the record does not state. The arrangement suggests that Boneta was glad to have the factor receive a small bonus for managing an investment difficult for a woman to carry.

The restrictions placed upon the activity of the factor in the *societas* differ so slightly from those imposed in the *acomendatio*, that they will be discussed in connection with that form of contract. In the main, the *societas* was a very flexible form of business contract, modified from time to time, according to the personal desires and abilities of the contracting parties. It met the demands of the Syrian trade particularly well in the earlier years of the commercial development, when the conditions of trade were comparatively difficult and before many Genoese had acquired large personal experience in that phase of the foreign trade. In the decade 1154-1164 not only was the Syrian trade in the control of a few prominent families, but this same group of capitalists dominated the Genoese commerce in

¹ Not. Gugl. Cass., f. 224 v.

² Ibid., f. 50.

³ Not. Lanfr. reg. I, f. 50.

general. The concentration of the larger part of the available capital in the hands of a limited number of men impelled them to combine their interests in this form of association, dividing the risks in a trade still replete with possibilities of loss. As the century drew to a close, when the trade was enlarged, when more men versed in Syrian conditions were available, when the amount of capital for investment increased and was more widely distributed, as was the case after 1179 in Genoa, the *societas* failed to meet the requirements of trade as well as it had done in the past. It was gradually replaced by another form of contract, the *acomendatio*.

II. THE ACCOMENDATIO

The *acomendatio* was an association for trade of later origin than the *societas*, which it rapidly displaced in the Genoese trade with Syria in the last quarter of the twelfth century. The *acomendatio* was formed between two individuals only; one, the *acomendator*, contributed all of the capital and remained in Genoa; the other, the *acomendatarius*,¹ contributed no capital, but carried the investment of his associate abroad, paid his expenses therefrom, used the investment as directed or as opportunity offered. He then brought or sent the proceeds to Genoa, placed them in the hands of his partner, and received at the division of the proceeds, one-fourth of the profits. The distinction between the *acomendatio* and the *societas* is clear: in the *societas*, the factor owned one-third of the capital, bore one-third of the risk and received one-half of the profits; in the

¹ These expressions were not commonly used in the period under review; following the practice used in the discussion of the *societas* the terms *investor* and *factor* will be used here for the sake of simplicity; this can be done with greater exactitude than in the case of the *societas*.

accomendatio the factor owned no capital, he assumed no risk; the investor owned all the capital and assumed all the risk. In the *societas* the factor and investor divided the profits equally: in the *acomendatio* the investor received three-fourths of the profits, the factor one-fourth. The ratio between capital, industry, risk and profits remained the same in both associations.¹

This form of association is found in the Genoese trade in the first decade in which we can study the commercial institutions, 1154-1164. It was decidedly secondary to the *societas* in importance, particularly in the Syrian trade. In fact the name *acomendatio* was not yet in general use. The expression *acomendatio*² was often applied to this form of association but not in the contracts for trade with Syria: there it is once described as *societas ad quartam proficui*;³ in all other contracts no definite expression was used; the factor simply acknowledged that he had taken so much money or merchandise from his associates for trade on an allowance of expenses and 25 per cent of the profits.⁴ While the *acomendatio* appeared early as a separate institution originating in the more widely utilized *societas*, it seems to have

¹ Goldschmidt's statement, *op. cit.*, p. 255, that the classification of the association according to the changing measure of the capital and industry is poor, does not hold for the associations in Genoese practice when the entire twelfth century is considered. Goldschmidt's knowledge of the Genoese associations was confined to the single period 1154-1164, when the *acomendatio* had not been fully developed. It is true as he says, p. 261, that the expressions *societas* and *acomendatio* were occasionally used indifferently in this early period in Genoa for the same sort of association; even later when the *acomendatio* had reached a distinctive position this confusion is sometimes observed, but that it was regarded as an error is indicated by the fact that the notaries often altered the reading in the record by cancelling the word incorrectly used and substituting the other. Not. Gugl. Casz., ff. 201, 218. Goldschmidt's classification of both forms as *comenda* is therefore not exact for the Genoese practice. Lastig's classification, *Die Acomendatio*, p. 76 ff., is better, except that he fails to appreciate fully the relation between the *societas* and the *acomendatio*, due to his reliance for Genoese practice upon the published records of 1154-1164, and to the broad scope of his work within a very small compass. Schaeube, *op. cit.* pp. 110-111, has the distinction more clearly drawn in two paragraphs.

² With various spellings of course. Ch. II, 301, 1370, etc.

³ *Ibid.*, 426.

⁴ *Ibid.*, 414, 472, 486, 617, 1504.

achieved its first stage of development as an adjunct of the *societas* under the form of *super societatem*. As the *societas* came to be used almost entirely with sums carried *super societatem*, the expressions, *acomendatio* and *super societatem* were used interchangeably in contracts drawn primarily for the formation of a *societas*; both expressions are found in the same contract, applied to sums of money carried under identical conditions.¹ After 1179, the *acomendatio* achieved a free development as a distinct form of association, and rapidly displaced the *societas* as the dominant form in the Syrian trade.

In the Syrian trade between 1154 and 1164 only six such associations were formed.² It is interesting to note that in this period, when the capital of the *societas* was almost invariably in money, the basis of four of these six associations was merchandise, cloth of various sorts and fur.³ The *acomendatio* was much more adaptable to the export of merchandise than was the *societas*, unless both partners in a *societas* for trade abroad possessed stocks of the same kind of wares.

In four of the six cases there are special circumstances surrounding the transactions which make them unusual even as *acomendationes*. Ribaldus Saraphie, the factor in one case,⁴ was a man of great means in Genoa, a ship-owner and money-lender, with trade interests in various parts of the West in 1155 and 1156.⁵ In the autumn of 1157 he went to Syria, probably for the first time, since

¹ Not. Lanfr., reg. I, f. 95; Not. Gugl. Cass., f. 243; These are particularly good illustrations of both expressions used in the same contract.

² Ante, notes 3 and 4.

³ The basis of the other two was probably merchandise: the investors were men of great wealth, Willielmus Buronus and Willielmus Ventus, two of the leading men in Genoa and they entrusted odd sums to the factors in these instances, 263 lire 13 soldi, and 71 lire 10 soldi, whereas their investments were usually expressed in round numbers of lire.

⁴ Ch. II, 414.

⁵ Ibid., 267, 295, 334, 335, 336, 365, 371, etc.

his trading interests there are subsequent to this voyage.¹ He was not at all the usual type of factor, but rather that of the investor of this period, although his family was not of official rank nor was he within the limited group that controlled the foreign trade of this period. He may have gone to Syria to look over the ground, preparatory to his subsequent investments in the trade. With him he took a large quantity of cloth belonging to Blancardus, on the understanding that he should receive one-fourth of the profits; expenses were to be allowed per lira, with what other sums we do not know, unless Saraphie carried capital of his own, which is very probable, since he loaned 40 lire to another merchant going with him to be repaid within one month after their arrival in Syria with 50 per cent interest, or within one month after their return to Genoa with 100 per cent interest!² The shrewd Saraphie made this arrangement with Blancardus, the owner of the cloth, as a means of reducing his expenses for the voyage. In another instance, Ugo Mallonus, the partner of Willielmus Filardus in a *societas* for trade in Syria, permitted his son Rubaldus, who went east in his father's place, to carry a small amount of cloth belonging to Filardus, for one-fourth of the profits; expenses were reckoned per lira with the capital of the *societas*, but Rubaldus received the one-fourth profits on the *acommodatio*; this was purely a family arrangement, satisfactory to Filardus as well.³ The third case is that of a young man, Ogerius de Amico, who went to Syria in 1158 with the intention of remaining there for some time. With his father's consent, he took $71\frac{1}{2}$ *l.* from Willielmus Ventus to be invested and the proceeds sent to Genoa; Ogerius is not heard of again in Genoa for six

¹ Ch. II, 907, 1180.

² Ibid., 419.

³ Ibid., 457, 486.

years; apparently his father collected the 25 per cent agreed upon in the contract.¹ Another association for trade in Syria for one-fourth profits was made in 1157 by Willielmus de Razedo as factor, with Willielmus Buronus as investor; the consideration was 263 *l.* 13 *s.*, in merchandise probably. Razedo was going to Syria for a protracted stay; he assumed the entrusted sum with a solemn oath on the Gospels to act in good faith, to commit no fraud, and to do therewith as Buronus should direct him by letter or by agent. In all respects this is an unusual contract, nor do we know that Razedo ever returned.²

The other two associations were more typical of the *acomendatio* as it soon came to be generally used. Laborantis, a man of no means apparently, beyond what he earned as a factor for well known merchants, in 1157 agreed to convey a quantity of fur to Syria for Willielmus Filardus, for expenses and 25 per cent of the profits.³ In 1164 one Novellonus, on the same basis, took to Syria for one Elia, cloth worth 32 lire, 16 soldi; neither individual can be further identified.⁴

The *acomendatio* in this decade was therefore not only most unusual in Syrian trade; it was largely confined to the export of merchandise; in most cases the circumstances surrounding its use were exceptional, nor was the very name of the association yet fixed by common ususage.

When the *acomendatio* had assumed a definite form and an important position in the Syrian trade, from 1179 onwards, some general characteristics developed which display its advantages over the *societas* and help to explain its extensive use. A factor going to Syria was

¹ Ch. II, 617, 1354.

² Ibid., 426. The oath was used only in associations formed for several years or for several voyages. Cf. Ch. II, 668, 792, 822, 1113.

³ Ibid., 472.

⁴ Ibid., 1504.

allowed to carry as much money or merchandise in accomendatio as he pleased, was able to assemble, or felt he could negotiate with ease, dependent upon his reputation, ability, and the length of time he expected to remain in Syria. The consent of one investor was not necessary to the assumption by the factor of funds in accomendatio from others. This was made possible by the insertion in the contract of the clause providing that the amount given in accomendatio should bear expenses and profits per lira with all other property carried by the factor.¹ Factors are found to have made many contracts with no other safeguard to the individual investors than this provision;² it was apparently considered sufficient in a commercial community where the merchants knew each other's standing well. Of course it often happened that the individual investor was aware of the extent and number of the sums in accomendatio carried by the factor. Presumably he knew this often through private channels; the records of the notaries were available at any time. Frequently several of the investors came before the notary with their factor at the same moment; then their contributions were accepted by the factor and registered in one entry by the notary;³ or if the contracts were drawn

¹ This clause is almost invariably inserted in all contracts for the formation of accomendations after 1179 and even when omitted, it was apparently understood as effective: Ansuiux de S. Genesio assumed two accomendations in 1191; the clause is inserted in one contract but not in the other. Not. Gugl. Cas., ff. 46, 54. Often the clause is abbreviated to read simply "expenses per libram (cum aliis quas portat?)" Not. Gugl. Cas., ff. 55 v., 57.

² Honoratus Boletus, two, Not. Gugl. Cas., ff. 53, 53 v.; Bufarus Saragus, two, Ibid., ff. 55 v., 57; Simon de Bulgario, five, Not. Ign., f. 102 (different investors probably assembled in Simon's house), f. 104; Petrus Silvanus, four, Not. Gugl. Cas., ff. 213, 244, 244 v., 256; Bonusvasallus de Nepitella, seven, Ibid., ff. 250 v., 254 v., 262, 270 v., 271, 272; Willielmus de Pallo, four, Ibid., ff. 242, 266, 268 v., 273 v. An exception is found in 1200, when Fulco de Dodo secured the consent of Willielmus Embriacus to carry cloth worth 127½ lire in accomendatio of Simon de Rivalgarius; but the Embriacus family was always more explicit and formal in its commercial dealings with others than was usual in Genoa at this time.

³ Not. Gugl. Cas., f. 53 (four sums in one contract), ff. 245, 257, 258, 268.

singly, the investors acted as witnesses to each other's agreements with the factor.¹ On the other hand, when the factor carrying sums in accomendatio was also a partner in a *societas*, the assent of his associate in the *societas* was secured.² This was necessary since in that case the factor was ordinarily obliged to turn the 25 per cent profit on the accomendatio into the *societas* before the division of the profits of the *societas*.³ The assent of the factor's associate in the *societas* was usually given for each accomendatio individually, by the partner or his agent; in one contract for a *societas*, the factor was given permission to carry what sums in accomendatio he would, provided he received one-fourth of the profits thereon, and turned such gains into the *societas* before the final division thereof.⁴ This blanket clause is only once found but illustrates the principle clearly.

The provision in the contracts for accomendaciones that the amounts given should bear expenses and profits per lira with all other property carried, also enabled the factor to carry sums of his own without registration thereof unless the amount was very large.⁵ Of course the investor usually knew the financial status of the factor and the approximate amount he could afford to carry for himself. After 1179, when the accomendatio was so widely used, the expansion of the Syrian trade and the loss of the monopoly by the great families

¹ Willielmus Scotus, Not. Gugl. Cass., f. 225 v. (three contracts); Paganus Gallus, Ibid., f. 267 v. (three contracts); Deteralve de Platealunga, Ibid., f. 226 (three contracts).

² Not. Ign., f. 20 v.; Not. Lanfr., reg. I, f. 95; Not. Gugl. Cass., ff. 108, 118 v., 216 v., 220 v., 225, 225 v., 243 v., 253 v.

³ Ante, pp. 147, 148.

⁴ Not. Gugl. Cass., f. 243.

⁵ That the factor carried money or merchandise of his own without registration may be deduced from the permission given him by the investor to do with the investor's money as he does with his own. Not. Ign., ff. 12, 20 v.; Not. Gugl. Cass., ff. 53, 271. For registration of large amounts carried by the factor for his own profit: Not. Gugl. Cass., f. 53 (133 lire), f. 226 (132-½ lire), f. 245 (30 lire ?), f. 245 (91 lire), f. 266 (25 lire); Not. Ign., f. 162 (700 lire).

created opportunities for men of small means skilled in trade. The factors as a rule were not men of great wealth, or of high position in Genoa, as was the case in the earlier period.¹ Their reputation as traders in this difficult phase of Genoese commerce meant something to them. Hence this simple safeguard afforded ample protection to the investors.

Another general consideration in connection with the *acomendatio* was that it was formed solely for one voyage to Syria and return, although the length of the stay in Syria might well be more extended than the few months elapsing between the arrival of the ship and the departure thereof of some three or four months later. Many of the factors toward the end of the century remained in Syria several years. This need not imply that they retained the capital and used it throughout the period, because at this later time it was often provided that the factor could send the proceeds to Genoa with reliable witnesses;² merchandise was often shipped to Genoa by the factor who remained in Syria.³ Occasionally the factors were allowed to make one voyage from Syria to another region of Genoese trade before returning to Genoa.⁴ Still the normal *acomendatio* was for one voyage and direct return to Genoa within a reasonable time. Some of the exceptions to

¹ It is not possible to present the data on this point at the present time. A special study of this change will be made later. The facts are apparent to any reader of the documents of the period.

² Some departed with this intention: in 1191 several factors stipulated that they be permitted to send the proceeds of their transactions to Genoa. Not. Gugl. Cass., ff. 53, 53 v., 91, 105 v. Also in 1198, *Ibid.*, ff. 108, 108 v., 118 v.; in 1200, Not. Ign., f. 104; in 1201, Not. Gugl. Cass., f. 171; in 1203, *Ibid.*, ff. 201, 206, 207 (possibility of remaining in Syria explicitly mentioned), 208, 209 v. The majority of the contracts in 1203 and 1205 contain this permission, which was not a mere legal formula, since the notary occasionally inserted and then erased it. Not. Gugl. Cass., ff. 220 v., 266.

³ This follows naturally from the permission to send the proceeds to Genoa. Receipts for goods so shipped are also found. Not. Ign., f. 31; Not. Gugl. Cass., ff. 26 v., 79 v.

⁴ Not. Lanfr., reg. I, f. 139; Not. Gugl. Cass., ff. 36, 47, 53, 56, 106, 161, 164, 243 v., 246, 268, 271 v., 272.

this rule are interesting enough to demand attention. Simon de Bulgaro, a well-to-do merchant, went to Syria in 1200, carrying sums entrusted in seven accomendationes in addition to 700 lire of his own property. He departed with the intention of remaining in the East for some years.¹ In one of the contracts he made before leaving Genoa, he agreed with the investor that he would make a reckoning of the profits at any time in Syria, with the investor or the investor's agent, and turn over the capital and profits at once.² In the same year Oto Judex de Castello went to Syria under contract to manage the large holdings of the Embriaci family in Acre for two years.³ He took with him, in accomendatio of Willielmus Embriacus major, 200 lire which he was directed to employ during his term of service, bringing the proceeds to Genoa upon his return. All expenses in connection with this fund were to be allowed; Oto should receive the usual one-fourth of the profits.⁴

As was the rule with sums carried super societatem the factor was allowed to use his own judgment in the investments. In most cases he apparently used all the sums in common and arranged a settlement with each investor upon the return. Frequently the investor stipulated that his investment was to be employed and brought back separated from the general stock of merchandise which the factor carried from Syria to Genoa.⁵ This provision was probably inserted when the investor

¹ Not. Ign., ff. 162, 164. He was still in Syria in 1203, when his wife sent him money and merchandise. Not. Gugl. Cass., f. 207.

² Not. Ign., f. 162.

³ Ibid., ff. 160 v.-161.

⁴ Ibid., f. 160 v.

⁵ The custom was to allow the factor to use his own judgment. Sometimes he was instructed to bring back the proceeds invested in common with that carried by him for others. Not. Gugl. Cass., ff. 53, 216 v., 263 v., 267, 262 v., 263, 293 v.; or invested separately, Not. Lanfr., reg. I, f. 95; Not. Gugl. Cass., ff. 53, 105 v., 256, 257 v., 261 v., 269, 269 v., 272.

had a preference in the sort of merchandise to be imported from the East. Such preferences while never stated in the contracts may well have been given privately to the factor in such cases.¹

These are the general features of the pure accomendatio to which the great mass of the contracts formed between 1179 and 1206 conformed.² There were variations, however, in the form of the association due to personal influences, to the financial situation of one of the contracting parties, or to the demands of interests already formed in Syria.

The first series of variations is based upon the differences in the stipulations with reference to the amount or proportion of the profit to be received by the factor.

Three contracts are found under which sums were carried in accomendatio in return for one-third of the profits. The most striking of the three is the association formed for the autumn voyage of 1191 between Obertus de Josberto and Josbertus (his father ?). Obertus assumed 504 lire, a very large sum, which he agreed to carry to Syria, giving a solemn oath to attend, save, guard and operate the investment in good faith and not to defraud his partner beyond 20 soldi (!) nor to loan the money to anyone except a merchant with good security.³ Upon his return, the younger Josbertus should receive one-third of the profits, but the older Josbertus admitted that 36 lire of the capital belonged to the younger. This was a liberal agreement, savoring of a *societas*, altho the capital was carried in accomendatio. Similarly in 1205 Marchus, son of Willemus Barbavaira, the draper, took in accomendatio of

¹ One commission to purchase cinnamon up to 600 besants in value was given in 1191, but the arrangement was not made in accomendatio. *Not. Gugl. Cass.*, f. 55.

² In all several hundred of this type have been found.

³ *Ibid.*, f. 53.

his father, 35 lire, 3 denarii for one-third of the profits.¹ The third instance of this kind was an accomodatio of 10 lire for one-third of the profits between two individuals of whom we know nothing further; the personal relationship which underlies the other two is not visible.² Apparently this form of accomodatio was infrequently used and only when the personal relations between the partners dictated the terms.

A single contract in which the percentage of profits is not stated definitely, was one of those made by Simon de Bulgardo for his voyage in the autumn of 1200. He carried for Willielmus Silvaticus 32 lire invested (*mixtas*) in common with his own. He agreed to give Silvaticus the same profit per lira as that made on his own capital.³ Again the arrangement is so peculiar that we are led to conclude a personal element is involved which cannot be traced. The two merchants owned a stock of goods in common of which Simon planned to make disposition in Syria on terms favorable to Silvaticus.

The last group of this series in which the variation lies in the division of the profits, is made up of about thirty contracts for accomodationes on which no profits were to be allowed to the factor. Five of this group cover small sums carried in accomodatio on which the usual one-fourth may have been allowed, but the provision is not given in the contracts;⁴ several of these contracts are for sums so small, 2 lire, 4 lire, 10 lire, etc., that we may assign them to common seamen and their friends;⁵ a few others for sums between 30 lire and 40 lire were probably carried for one-fourth profit, with an error of omission by the notary.⁶ For the remaining contracts of this group, we are on more certain grounds. Two

¹ Not. Gugl. Cass., f. 270.

² Ibid., f. 15.

³ Not. Ign., f. 162.

⁴ Not. Lanfr. reg. I, f. 143 v.; Not. Gugl. Cass., ff. 243 v., 257, 262 v., 272.

⁵ Ante, p. 150.

⁶ Ibid., ff. 245, 267 v., 268 v.

sums carried in accomendatio for no profit are entrusted to factors by members of the clergy; the amounts are small, 10 lire and 12 lire; these are two of three contracts found in which the clergy invested in this trade; unfortunately we know nothing of the factors in these two instances.¹ Numerous factors, of good standing, carried money and merchandise of small amounts in accomendatio, *gratis* or *per amore*, for their female relatives, or for the wives and sisters of their friends and associates.² The amounts of money are always small, from 2 lire to 18 lire. The merchandise thus carried was invariably the handicraft of the women concerned, embroidered clerical vestments, cloaks, etc., which apparently met a ready sale among the colonists or clergy in Syria. The remaining half dozen accomendationes carried gratis were undertaken by factors for family connections, not always of small amounts, but usually by factors well supplied with other sums. Henricus Streiaporcus in 1205 carried in accomendatio gratis for Drua, his mother, 200 lire belonging to him and his brother, of which the mother still retained control, and 28 lire of her property.³ Similarly, Paganus Gallus, not yet in possession of his share of his deceased father's estate, in the same year, carried in accomendatio gratis of his mother and his guardian 100 lire from the inheritance of his brother and himself; his mother gave him 50 lire of her patrimony on an allowance of one-fourth of the profits.⁴ Willielmus de Pallo went to Syria in 1205 as factor in several accomendationes and carried 200½ lire gratis for his brother.⁵ A more interesting case is that of Simon de

¹ Not. Lanfr., reg. I, f. 59; Not. Gugl. Cass., f. 201; Ch. II, 1080.

² Not. Lanfr., reg. I, f. 143; Not. Gugl. Cass., ff. 118, 213 v., 216, 243, 246, 252, 268 v., 273.

³ Ibid., f. 273.

⁴ Ibid., f. 273 v.

⁵ Ibid., f. 267 v.

Bulgaro and his sister Sibelia, in 1200.¹ Simon went East to remain two years; he carried for Sibelia 150 lire for the usual 25 per cent; in addition, he carried for her *gratis et amore* 151 lire; out of the proceeds of this fund were to be paid all the expenses of Sibelia's son, Marinus, who accompanied Simon for the sake of experience in the Syrian trade, possibly in order that he might become an agent for his mother. Simon was willing to forego his usual 25 per cent partly as a favor to his sister, but he probably found the youth of service to him as well.

These accommodations in which the factor's profit varied from the normal 25 per cent, while numerous and interesting, were invariably drawn under unusual circumstances, between family connections for the most part. In all cases where the amount was large the expenses of the factor were reckoned per lira with all others carried, even sums on which he agreed to accept no profit.

Another series of accommodations are found on which no expenses are allowed. A score of these contracts were apparently made by mariners with their friends and associates; the amount of capital in these cases varies from 2 lire to 20 lire; in most cases it is below 10 lire.² In one instance a priest entrusts 2 lire to a factor *sine expensis*.³ More interesting is the case of Johannes, indentured (?) to Ansaldus Fornarius, who was sent to Syria by his master in 1205, carrying 30 lire, 10 soldi, 9 denarii for Ansaldus and his wife, *sine expensis*.⁴ He was directed to go with one Petrus Silvanus, wherever the latter, a factor carrying several hundred lire for

¹ Not. Ign., f. 162. See also, *ibid.*, f. 6; Not. Gugl. Cass., ff. 53 v., 262.

² Not. Ign., f. 15; Not. Gugl. Cass., ff. 213, 216, 218 v., 219 v., 223 v., 224, 244 v., 246, 246 v., 247, 249 v., 260 v., 264 v., 265 v., 272, 272 v., 293 v.

³ *Ibid.*, f. 201.

⁴ *Ibid.*, f. 273.

various investors,¹ might go for trade in Syria; probably there was an agreement with Silvanus which would explain where this servant's expenses came from; he may have been taken by Silvanus as an assistant. Servants of factors occasionally sent a small sum in *acommodationis sine expensis*.² Only one contract involving a large sum carried without expenses is found, an agreement to carry 94 lire for which no explanation offers, since the factor is otherwise unknown; were he a ship-owner the situation would be plain.³ The *acommodationis sine expensis* was exceptional. Except when the evidence leads to the supposition that the factors were seamen, the personal relation between the associates is significant, as has been shown to be true in the *acommodationes* in which the profit allowed to the factor varied from the normal 25 per cent, and in the *societas sine expensis*. In all *acommodationes sine expensis* the usual 25 per cent was granted except in one case when the factor's servant sent 33 soldi with her master.⁴

Conditional *acommodationes* are occasionally found after 1179, in which the investor entrusts money or merchandise in *acommodationis* to factors going to Syria, to be turned over to a specified merchant in Syria. The consignor of the goods is sometimes the wife or business associate of a merchant engaged in trade in Syria. Anna, wife of Simon de Bulgario who left for Syria in 1200, sent to him in 1203, 183½ lire, invested in cloth, 16½ lire in money, entrusting the whole to Johannes Bancherius in *acommodationis*.⁵ Three partners of Bernition Scotus

¹ Not. Gugl. Cass., ff. 244, 244 v., 256.

² Not. Lanfr., reg. I, f. 136 v.; Not. Gugl. Cass., f. 293 v.

³ Not. Ign. f. 17 v.

⁴ Not. Lanfr., reg. I, f. 136 v.

⁵ Not. Gugl. Cass., f. 207.

sent 284 lire to him in 1191 in accomendatio by the son of one of them.¹ The conditions are usually clearly stated:² the factor was bound to deliver the merchandise or money to the person named, if that individual could be found, or if the consignee were willing to accept it. Apparently the goods were sometimes shipped on an order from Syria; sometimes this must have been done without an order, when the consignee was allowed to refuse to receive the consignment. In one case the goods were shipped at the risk and expense of the merchant in Syria, which clearly implies an order. If the consignment was rejected in Syria, or if the consignee could not be found, the factor was directed to employ it in trade under the usual terms, expenses and 25 per cent of the profits. Presumably the expense of transportation was borne by the consignee, if the goods were turned over to him, altho only one contract specifically provides for this. If the consignee rejected the goods or was not found by the factor, the expense would naturally be reckoned per lira as in other cases. These contracts for accomendaciones with consignments illustrate the development of the accomendatio to a point where it could be utilized for many different purposes.

Another use of the accomendatio which was not uncommon in the trade with Syria, after it had developed so extensively, further displays the superior flexibility of this form of association. Debts owed by men in Syria to residents of Genoa were collected by reputable factors going to Syria, under contracts made with the creditor in Genoa. The creditor authorized a factor to collect the debt for him, and directed the factor to take the amount collected in accomendatio, to use it in trade as he saw fit. Upon the return of the

¹ Not. Gugl. Cass., f. 53 v.

² Not. Lanfr., reg. I, ff. 96, 132 v.; Not. Gugl. Cass., ff. 53 v.; 56 v., 207, 210 v.

factor to Genoa, expenses of the factor incurred in trade with this sum should be reckoned per lira with other amounts carried, and the factor should receive 25 per cent of the profits. No provision or allowance for expenses or effort in the collection of the debt was made.¹

The last variation of the *acomendatio* to be described is the least frequently encountered; only five instances have been found.² These were associations in which the factor made a deposit of money with the investor before leaving Genoa with the investor's merchandise. The merchandise was cloth in every case but one. The amount of the deposit ranged from 33½ per cent to 67 per cent of the value of the goods. The factor was directed to deduct the amount of his deposit from the proceeds of the sale of the goods in Syria; since the deposit was made in Genoa in lire, and had to be deducted in Syria in besants, the ratio of besants to lire at which the deduction must be made was stated in the contract; it was the usual ratio of the time, including no interest. After deducting the amount of the deposit, the factor was permitted to employ the balance of the proceeds of the sale in trade in *acomendatio* for 25 per cent of the profits of the whole transaction. The factor lost the use of his deposit for several weeks or months and received no interest, nor was he the recipient of any unusual favor in the *acomendatio* to be formed with the proceeds of the sale. The question then arises of the reasons for the peculiar arrangement. Two of the contracts were undertaken in 1184 by Oglerius Rapallinus de Capiti, a factor, with Gualibertus Verante in one instance and with Zuchellus Verante in another. In both cases Oglerius furnished guarantors for his in-

¹ Ch. II, 1108; Not. Gugl. Cass., ff. 56, 273.

² Not. Ign., f. 164; Not. Lanfr., reg. I, f. 139; Not. Gugl. Cass., ff. 212, 224.

tegrity, which in connection with the deposit implied lack of confidence in him by the Verante; moreover Oglerius agreed not to charge expenses on the goods, provided the investors paid all duties. Two similar contracts of this sort were entered into by a young factor, Willielmus de Astur, under the direction of his father, with Willielmus Bellus de Castello; again the suggestion arises that the youth or inexperience of the factor underlies the requirement of a deposit, and that his father was the guarantor. But the fifth contract of this character was made in 1200 by Simon de Bulgario, whose ability and integrity could not be questioned. The explanation seems to lie therefore in one of two other directions than lack of confidence in the factor: either the investor could not bear the entire risk of loss under a simple *acomendatio*, and required the deposit in order to divide the risk; or else the investor was shipping to Syria his entire capital in cloth, and required the deposit as a means of continuing his trade in Genoa. It is this last explanation which answers all the questions, since the divided risk could have been secured by forming a *societas*.

The *acomendatio* displaced the *societas* as the favorite association for trade with Syria in the last quarter of the twelfth century by reason of certain changes that had occurred in the character of the trade, and because of certain inherent features of the *acomendatio* which made it more adaptable to foreign trade in general toward the end of the century. In the first period of the Genoese trade with Syria, of which we may take close cognizance, 1154-1164, the trade was practically monopolized by a few of the leading commercial Genoese families. The trade was not at that time an export business in any noticeable degree. The great merchants invested money in Oriental wares purchased

in Syria, to be sold in Genoa and to be distributed throughout the West along avenues of trade already well laid down by the Genoese. The risks encountered were greater about the middle of the century than they were twenty-five years later when the commercial conditions in Syria were much more clearly understood. The commerce to be profitable required large amounts of capital represented by cash; Genoese exports were not yet in demand in Syria. The risks were great enough to warrant the division thereof among two or more investors. The very youth of the trade and the small number of people engaged therein prevented the average individual from risking his capital, even if competition with the great merchants would have made it profitable. The *societas* met all these requirements of the trade in the early epoch.

In the last quarter of the twelfth century and the opening years of the thirteenth, these conditions were altered. The great families had been unable to retain their grasp on the rapidly expanding Genoese commerce with Syria and other regions. The trade with Syria had become much more of an export trade than in the earlier period, altho cash still went East in large masses to bring back to Genoa the precious goods of the Orient. Men with little money, and a stock of desirable wares engaged in the trade. The risks were less; individual merchants could afford to assume the entire risk without forming a rigid partnership with another for the purpose of dividing the possible losses. With the growth of the Syrian trade and Genoese commerce in general, a class of men had grown up who were skilled in trade abroad, who probably spoke foreign dialects, and were eager to secure the use of capital or merchandise they either did not possess or could not produce. The *accomendatio* better suited all these conditions than did the *societas*.

The century of commercial expansion had produced goods and money in large quantities; it had produced a class of men versed in trade; the two elements, capital and industry, found their best combination in the accomendatio.

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